SENATE SÉNAT

CANADA

DEBATES OF THE SENATE

1st SESSION • 42nd PARLIAMENT • VOLUME 150 • NUMBER 212

OFFICIAL REPORT
(HANSARD)

Thursday, May 31, 2018

The Honourable GEORGE J. FUREY,
Speaker

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Debates Services: D'Arcy McPherson, National Press Building, Room 906, Tel. 613-995-5756
Publications Centre: Kim Laughren, National Press Building, Room 926, Tel. 613-947-0609

Published by the Senate
Available on the Internet: http://www.parl.gc.ca

THE SENATE

Thursday, May 31, 2018

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

NEWFOUNDLAND AND LABRADOR

RECOGNITION OF SACRIFICES OF THE ROYAL NEWFOUNDLAND REGIMENT IN GALLIPOLI

Hon. Elizabeth Marshall: Honourable senators, Newfoundlanders and Labradorians are proud of their military heritage and suffered horrendous losses in the First World War.

Although we did not join the Canadian Confederation until 1949, we fought in both World Wars alongside Great Britain, Australia, New Zealand, Canada and other Commonwealth countries.

Following the First World War, five battlefield memorials were built in France and Belgium to commemorate Newfoundland's sacrifices and contributions.

The memorials are in the form of the caribou, an animal indigenous to Newfoundland and Labrador and familiar to all Newfoundlanders and Labradorians. The caribou was the emblem used in the badge of the Royal Newfoundland Regiment.

With a bronze caribou monument at each of these five sites, it became known as the Trail of the Caribou. Together they represent some of the most important moments of Newfoundland's experiences during the First World War.

In addition to fighting in Europe during the First World War, the Royal Newfoundland Regiment also fought in Gallipoli in Turkey in the early days of the war. In fact, they were among the very last troops to leave the Gallipoli peninsula, assisting in the successful evacuation of British troops and their allies to Egypt.

For many years, there have been discussions and efforts to commemorate the Royal Newfoundland Regiment with a sixth caribou monument in Gallipoli. The absence of a caribou at the Gallipoli battlefield created a void in Newfoundland's recognition of our fallen.

Honourable senators, the Speaker of the House of Assembly in Newfoundland and Labrador, the Honourable Perry Trimper, recently announced that a caribou will be installed on the Turkish peninsula, commemorating the first place where the Royal Newfoundland Regiment fought during the First World War.

Honourable senators, join me in celebrating this long-awaited announcement recognizing the sacrifices of the Royal Newfoundland Regiment in Gallipoli in World War I.

Hon. Senators: Hear, hear!

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Maggie Ip, Queenie Choo, Donnie Wing and representatives of S.U.C.C.E.S.S. They are the guests of the Honourable Senator Martin.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

S.U.C.C.E.S.S.

CONGRATULATIONS ON FORTY-FIFTH ANNIVERSARY

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I rise today to recognize the forty-fifth anniversary of a model charitable organization headquartered in British Columbia, which is well known as S.U.C.C.E.S.S., standing for Society of United Chinese Community Enrichment Social Services.

Their annual signature events, the S.U.C.C.E.S.S. gala, charitable golf tournament and Walk With the Dragon, engage tens of thousands of individual and corporate donors, and gather politicians of all stripes from all levels of government.

In 1973, a group of visionaries — Maggie Ip, Jonathan Lau, Mei-Chan Lin, Pauline To and Linda Leong — envisioned "a world of multicultural harmony" and established S.U.C.C.E.S.S. to assist new Canadians of Chinese descent to overcome language and cultural barriers. Over 45 years, the organization has evolved into one of British Columbia's largest multicultural, multi-service agencies, delivering services in the areas of settlement, employment, health and housing, including for seniors, as well as business, auto insurance and economic, community and social development. Today, more than 500 professional staff and 2,000 volunteers are assisting new immigrants and vulnerable persons at all stages of their Canadian experience at 20 locations across Greater Vancouver and Fort St. John, at overseas offices in Taiwan, China and South Korea, and through mobile teams dispatched around the world where S.U.C.C.E.S.S. is called upon.

Honourable senators, S.U.C.C.E.S.S. is a perfect Canadian success story. It was started by immigrants to help their fellow immigrants, and, through empowering others, they are finding success and broadening and deepening their reach beyond Canada.

The delegation of representatives of S.U.C.C.E.S.S. perfectly illustrates the key to their success: the people who serve tirelessly for the cause of what they do.

Like their visionary dedicated founders, past and current dedicated leadership of S.U.C.C.E.S.S. serve while holding fast to the mission and objectives of S.U.C.C.E.S.S. Their volunteers offer their gifts of time and talent, and their donors give generously to allow S.U.C.C.E.S.S. to expand their reach and broaden their services where needed.

In fact, S.U.C.C.E.S.S.'s first overseas office was opened in Seoul, South Korea, to offer pre-landing services through the Active Engagement and Integration Project, or AEIP. It aims to facilitate a smooth transition for newcomers to Canada by providing services that promote community and labour market engagement prior to their departure.

You can imagine individuals aiming to study abroad or coming to Canada can find success through their services. Please join me in applauding S.U.C.C.E.S.S. in helping build our nation and bettering the lives of countless people around the world.

[*Translation*]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Canada 150 medal recipients: Joël Beddows and Ghislain Caron of the Théâtre français de Toronto; Suzanne Clément and Dr. Bernard Leduc of the Montfort Hospital; Claudette Gleeson and Luc Morin of the Ontario Cooperation Council; and Carol Jolin and Peter Hominuk of the Assemblée de la francophonie de l'Ontario. They are the guests of the Honourable Senator Moncion.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

SENATE COMMEMORATIVE MEDAL

Hon. Lucie Moncion: Honourable colleagues, in celebration of the Senate's 150th anniversary, we were invited to honour individuals and organizations whose exceptional contributions have touched the lives of Canadians.

This time, I have chosen to award five medals to Ontario francophone organizations that are working hard to make their communities better places to live and put those communities on the map for all to see. All of these recipients have impressive track records, each in their own field.

• (1340)

The first organization I want to recognize is the Assemblée de la francophonie de l'Ontario. The AFO was founded in 1910 with the mission of fighting instances of educational injustice, such as the infamous Regulation 17, that prevented francophones from receiving schooling in their mother tongue. Today, the AFO represents the Franco-Ontarian community on all issues pertaining to rights and privileges in areas such as economic development, education, tourism and francophone immigration.

The second organization is the Ontario Cooperation Council. Since 1964, the OCC has been actively involved in the economic development of Ontario's francophone communities. It is a leader in social economy and cooperation and is working on a number of significant issues, such as providing Franco-Ontarian youth with training on business succession, the social economy, and financial literacy. The OCC works hard to help launch SMEs, serving as a mentor, coach and advisor.

The third organization I chose is the Montfort Hospital, Ontario's only French-language health care facility. The hospital's mission is to improve access to health care in French by training Ontario's next generations of doctors and health care professionals. It represents an entire community that has had to fight to maintain its dignity and language rights. The Montfort Hospital is a symbol of resilience and pride and a jewel in our Franco-Ontarian community.

The fourth organization I chose is the Théâtre français de Toronto. In its 50 years, TfT has positioned itself as one of the most influential professional French-language theatre companies outside Quebec. TfT welcomes more than 10,000 francophone and francophile spectators each season from all over the Greater Toronto Area and southwestern Ontario. Since 1990, TfT has been offering its francophone and francophile audience a varied repertoire that includes Canadian and international plays, new works, and the great classics.

The last organization is Le Phénix. This provincial organization promotes the rights of persons with disabilities and educates provincial institutions and businesses on legislation for persons with disabilities. Le Phénix — not to be confused with the pay system — promotes the inclusion and full involvement of persons with disabilities in the province's economic, social, community and cultural activities.

Mr. Speaker, esteemed colleagues, I am proud to have the privilege to recognize and pay tribute to organizations that make significant contributions to the well-being of Franco-Ontarians. They all work hard to promote the French language and culture and, in their own way, they make Ontario and Canada great places to live.

Thank you for your attention.

Hon. Senators: Hear, hear!

[*English*]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Mr. Jesille Peters and Mr. Kieron McDougall. They are the guests of the Honourable Senator Jaffer.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

PARLAMERICAS IN TRINIDAD AND TOBAGO

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to give a heartfelt thanks to the Honourable Bob Nault, Vice-President of ParlAmericas and Chair of the Canadian Section of ParlAmericas, Alisha Todd, Director General at ParlAmericas, and all parliamentarians of the Canadian delegation for last week's Gathering of the ParlAmericas Parliamentary Network for Gender Equality in Trinidad and Tobago.

I extend sincere thanks to our host, the Parliament of the Republic of Trinidad and Tobago, for their warm welcome to Port of Spain.

A special thank you to Nadine Stewart-Phillips and to my guests in the gallery today, Jesille Peters and Kieron McDougall, for their help in making my stay in Trinidad and Tobago one of the best experiences of my life as a senator. Both Jesille and Kieron worked tirelessly to offer me the visit of a lifetime. Thank you.

Their efforts made me appreciate the true beauty of the country and the conversations I shared with the people, who were very welcoming.

I would also like to thank Nadia Faucher, an analyst at the Library of Parliament, and David Novoa from International and Interparliamentary Affairs for their support in making this trip a success.

At this event, participants from 22 countries shared experiences and learned from one another about how to apply a gender lens to policies, programs and legislation related to climate change.

The training sessions are a highlight of ParlAmericas gatherings and a valuable opportunity for all of us both to engage in continuous learning and to exchange the experiences that will make us better legislators.

Honourable senators, I want to share something special with you. Yesterday, May 30, was the anniversary of the arrival of Indians to Trinidad and Tobago, also known as Indian Arrival Day. Indian Arrival Day is a holiday celebrated in the nations of the Caribbean and in Mauritius to commemorate the arrival of people from India to their communities. Trinidad and Tobago was the first country to start this holiday.

As an Indian from East Africa, I never thought that any country would celebrate our arrival. In Port of Spain, I was truly touched to attend events commemorating the arrival of Indians.

It gave me such a warm feeling that the people of Trinidad and Tobago celebrate their differences. They are proud of the presence of various cultures within their communities.

There is a lot we can learn from the people of Trinidad and Tobago as they set examples for values of acceptance and cultural pride. I will cherish those memories forever. Thank you very much.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Jennifer Lynne Jordan, Kathleen June Matharoo, Anna Borozynets and Darcy Farlow. They are the guests of the Honourable Senator Deacon.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

YOUTH HEALTH AND SPORT

Hon. Marty Deacon: Honourable Senators, first let me thank senators who were able to attend the all-party symposium last night addressing harassment in sport. This was an opportunity to listen, learn and respond to the need to ensure that all children are safe as they head out to enjoy the benefits of sport wherever they are, whatever the sport throughout Canada. The panellists, including the Honourable Senator McPhedran, each spoke honestly and passionately about their experiences and what we need to do to get this right in this country. Thank you for that.

Honourable senators, today I rise to call on this chamber to continue to work together to promote health and fitness for all Canadians.

I congratulate my colleagues in the chamber who have been taking on the challenge of being role models for all Canadians, many here today.

We have seen the interest of parliamentarians grow over the years both in the Parliamentary Fitness Initiative and in events on the Hill such as Tuesday's Bike Day on the Hill, which engaged 109 cycling advocates with parliamentarians working towards making Canada a bike-friendly nation.

We are still facing the very challenging situation of raising the first generation of children who will not live as long as their parents did. This is why we need to improve our health level now and show our children how we can do better.

This is one of the reasons why National Health and Fitness Day was created. It will happen the first Saturday in June this year, just a few days away, on June 2.

We are getting more declarations by the hour. More than 380 towns and cities across Canada have proclaimed that day, including Vancouver, Calgary, Montreal, Whistler, Ottawa and Halifax. Look at nhfdcan.ca to see if your community has proclaimed this day.

In Ottawa, there will be a MoveCamp on the Hill on Saturday morning at 10 o'clock.

In Halifax, former Senator Nancy Greene Raine will be leading a fun run/walk for the mayors from across Canada attending their annual conference.

We have the support of ParticipACTION, the Trans Canada Trail and the Fitness Industry Council of Canada, which has encouraged over 2,500 private clubs across Canada to waive all of their drop-in fees on June 2.

I thank all my colleagues who are promoting better health for all Canadians and considering the importance of the health of our youth each and every day. It shows to all generations that we can work together to make Canada the fittest nation on earth.

Today, we also continue to acknowledge and thank our role models, our young and not-so-young athletes. We invite you to join and meet our Commonwealth Games athletes who made us very proud at the Commonwealth Games in Australia. They are here today on the Hill. Please drop by to see these wonderful, inspiring athletes. Thank you.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Sophia Aggelonitis, former Ontario Minister of Revenue. She is the guest of the Honourable Senator Wallin.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

• (1350)

ROUTINE PROCEEDINGS

BUDGET IMPLEMENTATION BILL, 2018, NO. 1

TWELFTH REPORT OF AGRICULTURE AND FORESTRY COMMITTEE ON SUBJECT MATTER TABLED

Hon. Diane F. Griffin: Honourable senators, I have the honour to table, in both official languages, the twelfth report of the Standing Senate Committee on Agriculture and Forestry, which deals with the subject matter of Bill C-74, An Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures.

(*Pursuant to the order adopted on April 24, 2018, the report was deemed referred to the Standing Senate Committee on National Finance and placed on the Orders of the Day for consideration at the next sitting.*)

STUDY ON PRESENT STATE OF THE DOMESTIC AND INTERNATIONAL FINANCIAL SYSTEM

TWENTY-FIRST REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE TABLED

Hon. Carolyn Stewart Olsen: Honourable senators, I have the honour to table, in both official languages, the twenty-first report (interim) of the Standing Senate Committee on Banking, Trade and Commerce entitled *Taxation of the Hutterites in Canada*.

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

(On motion of Senator Stewart Olsen, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

BUDGET IMPLEMENTATION BILL, 2018, NO. 1

SEVENTEENTH REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE ON SUBJECT MATTER TABLED

Hon. Gwen Boniface: Honourable senators, I have the honour to table, in both official languages, the seventeenth report (interim) of the Standing Senate Committee on National Security and Defence, which deals with the subject matter of Bill C-74, An Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures.

(*Pursuant to the order adopted on April 24, 2018, the report was deemed referred to the Standing Senate Committee on National Finance and placed on the Orders of the Day for consideration at the next sitting.*)

TWENTY-SECOND REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ON SUBJECT MATTER TABLED

Hon. Carolyn Stewart Olsen: Honourable senators, I have the honour to table, in both official languages, the twenty-second report of the Standing Senate Committee on Banking, Trade and Commerce, which deals with the subject matter of Bill C-74, An Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures.

(*Pursuant to the order adopted on April 24, 2018, the report was deemed referred to the Standing Senate Committee on National Finance and placed on the Orders of the Day for consideration at the next sitting.*)

CRIMINAL CODE

BILL TO AMEND—TWENTY-FOURTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

Hon. Serge Joyal, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, May 31, 2018

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

TWENTY-FOURTH REPORT

Your committee, to which was referred Bill C-46, An Act to amend the Criminal Code (offences relating to conveyances) and to make consequential amendments to other Acts, has, in obedience to the order of reference of December 14, 2017, examined the said bill and now reports the same with the following amendments:

1. *Preamble, page 1*: Replace line 26 with the following:

"to adopting a precautionary approach in relation to driving and the consumption of drugs, and to deterring the commission of offences relating to".

2. *Clause 15, pages 23, 24, 29, 30, 32 and 34*:

(*a*) On page 23, replace line 35 with the following:

"**320.27** If a peace officer has reasonable grounds to";

(*b*) on page 24, delete lines 18 to 27;

(*c*) on page 29,

(i) replace line 27 with the following:

"son's blood alcohol concentration was equal to or exceeded 20 mg of alco-", and

(ii) replace line 29 with the following:

"centration within those two hours is conclusively presumed to be the concentra-";

(*d*) on page 30, replace line 30 with the following:

"mand made under section 320.27 or 320.28.";

(*e*) on page 32, replace line 19 with the following:

"**(c)** any error or exception messages produced by the approved instru-"; and

(*f*) on page 34, replace line 18 with the following:

"conducted under paragraph 320.27(a); and".

3. *Clause 31.1, page 41*: Replace line 14 with the following:

"**ed by this Act, including an evaluation of whether their implementation and operation have resulted in differential treatment of any particular group based on a prohibited ground of discrimination. The Minister of Justice and Attorney General of Canada must prepare a report setting out**".

4. *Clause 38, page 43*: Replace line 34 with the following:

"**320.4(b)(ii) and paragraph 320.4(c) of the *Criminal Code* as enacted by**".

Your committee has also made certain observations, which are appended to this report.

Respectfully submitted,

SERGE JOYAL
Chair

(*For text of observations, see today's* Journals of the Senate, *p. 3512.*)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

(On motion of Senator Joyal, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

[*Translation*]

BUDGET IMPLEMENTATION BILL, 2018, NO. 1

TWENTY-FIFTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE ON SUBJECT MATTER TABLED

Hon. Serge Joyal: Honourable senators, I have the honour to table, in both official languages, the twenty-fifth report of the Standing Senate Committee on Legal and Constitutional Affairs, which deals with the subject matter of Bill C-74, An Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures.

(*Pursuant to the order adopted on April 24, 2018, the report was deemed referred to the Standing Senate Committee on National Finance and placed on the Orders of the Day for consideration at the next sitting.*)

FIFTEENTH REPORT OF ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES COMMITTEE ON SUBJECT MATTER DEPOSITED WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. Rosa Galvez: Honourable senators, I have the honour to table, in both official languages, the fifteenth report of the Standing Senate Committee on Energy, the Environment and Natural Resources, which deals with the subject matter of Bill C-74, An Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures.

(*Pursuant to the order adopted on April 24, 2018, the report was deemed referred to the Standing Senate Committee on National Finance and placed on the Orders of the Day for consideration at the next sitting.*)

[*English*]

SCRUTINY OF REGULATIONS

FOURTH REPORT OF JOINT COMMITTEE—
CORRECTION TO REPORT

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable senators, last week, on behalf of the Standing Joint Committee for the Scrutiny of Regulations, I presented a report. I would like to note for the record that there was an error in the report that I presented. The report mentions that a copy of the government response to the joint committee's second report was attached to the fourth report. The government response was tabled in the Senate on October 25, 2017.

Unfortunately, however, the document that was attached to the report was follow-up correspondence relating to the government response, rather than the response itself. I would, therefore, ask for leave of the Senate that the report be corrected, including in the parliamentary record, so that the government response is appended to the report rather than follow-up correspondence.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

(Ordered, That the fourth report of the Standing Joint Committee for the Scrutiny of Regulations, presented in the Senate on May 22, 2018, be corrected by replacing the final page of the report with a copy of the government response to the second report of said committee.)

ADJOURNMENT

NOTICE OF MOTION

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Monday, June 4, 2018, at 6 p.m.;

That committees of the Senate scheduled to meet on that day be authorized to sit even though the Senate may then be sitting and that rule 12-18(1) be suspended in relation thereto; and

That rule 3-3(1) be suspended on that day.

CANNABIS BILL

MOTION TO AFFECT PROCEEDINGS ON THIRD READING OF BILL C-45 UNTIL START OF SITTING THAT NEXT FOLLOWS JUNE 6, 2018 ADOPTED

Hon. Peter Harder (Government Representative in the Senate): Honourable colleagues, I think you will find broad agreement amongst the house for the following motion, seconded by Senators Smith, Woo and Day.

Honourable senators, with leave of the Senate and notwithstanding rule 5-5(j), I move:

That, notwithstanding any provision of the Rules or usual practice, until the start of the sitting that next follows June 6, 2018, the following provisions govern proceedings on Bill C-45, An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts:

1.1. proceedings on each sitting shall be limited to the following themes in the bill, with speeches or amendments not generally relating to the theme of a particular day being out of order:

(*a*) Thursday, May 31, 2018: issues relating to cannabis production, including matters such as cultivation, home growth and agricultural production;

(*b*) Friday, June 1, 2018: issues relating to the sale and distribution cannabis, including matters such as procurement and storefront distribution, packaging, health warnings and advertising;

(*c*) Monday, June 4, 2018: international issues relating to cannabis, including matters such as treaties and border issues;

(*d*) Tuesday, June 5, 2018: issues relating to criminal penalties, including matters such as criminality and youth, criminal penalties for distribution and illicit cannabis; and

(*e*) Wednesday, June 6, 2018: issues relating to cannabis consumption, including matters such as the minimum age for consumption, possible effects on mental health, possible effects on public health, and matters relating to the Indigenous peoples of Canada;

1.2. a senator may speak once per sitting, for a maximum of 10 minutes, to the motion for third reading of the bill, and may also speak once, for a maximum of 10 minutes, to any amendment and subamendment;

1.3. if a standing vote is requested in relation to any motion relating to the bill, that vote shall not be deferred, and the bells to call in the senators shall ring for only 15 minutes;

1.4. no motion to adjourn debate, to adjourn the Senate or to take up any other item of business shall be received while the Senate is considering an amendment to the bill or a subamendment;

1.5. if, at the ordinary time of adjournment, the Senate is considering an amendment to the bill or a subamendment, the Speaker shall interrupt proceedings to put successively, without further debate or amendment, all questions necessary to dispose of the amendment and, if a subamendment is under consideration, the subamendment, with the bells to call in the senators only ringing once, and for 15 minutes, for the first standing vote that is requested; and

1.6. the sitting shall not be suspended at 6 p.m. unless proceedings on the bill have been adjourned; and

That at the sitting that next follows June 6, 2018, the Rules and practices apply as normal in relation to proceedings on Bill C-45, except as follows:

2.1. any prior speech relating to the bill shall not be counted as a speech for the purposes of rule 6-2(1);

2.2. no motion to adjourn debate on any motion relating to the bill shall be received;

2.3. no motion to adjourn the Senate or to take up any other item of business be received until the bill has been decided upon;

2.4. if a standing vote is requested on any motion relating to the bill, that vote shall not be deferred, and the bells to call in the senators shall only ring for 15 minutes;

2.5. the sitting shall not be suspended at 6 p.m. unless the Senate has disposed of the bill; and

2.6. if the Senate has not disposed of the bill at the ordinary time of adjournment, the Speaker shall interrupt proceedings to put successively, without further debate or amendment, all questions necessary to dispose of the bill, with the bells to call in the senators only ringing once, and for 15 minutes, for the first standing vote that is requested.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

• (1400)

[*Translation*]

UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-262, An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples.

(Bill read first time.)

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

(On motion of Senator Sinclair, bill placed on the Orders of the Day for second reading two days hence.)

[*English*]

COMMONWEALTH PARLIAMENTARY ASSOCIATION

BILATERAL VISIT TO TANZANIA AND ZAMBIA, AUGUST 20-30, 2017—REPORT TABLED

Hon. Mobina S.B. Jaffer: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Branch of the Commonwealth Parliamentary Association respecting its bilateral visit to Dar es Salaam and Dodoma, Tanzania, and Lusaka, Zambia, from August 20 to 30, 2017.

COMMONWEALTH PARLIAMENTARY CONFERENCE, NOVEMBER 1-8, 2017, AND BILATERAL VISIT TO SRI LANKA, NOVEMBER 8-11, 2017—REPORT TABLED

Hon. Mobina S.B. Jaffer: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Branch of the Commonwealth Parliamentary Association respecting its participation at the 63rd Commonwealth Parliamentary Conference held in Dhaka, Bangladesh, from November 1 to 8, 2017, and its bilateral visit to Colombo, Sri Lanka, from November 8 to 11, 2017.

WESTMINSTER SEMINAR ON PARLIAMENTARY PRACTICE AND PROCEDURE, NOVEMBER 13-17, 2017—REPORT TABLED

Hon. Mobina S.B. Jaffer: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Branch of the Commonwealth Parliamentary Association respecting its participation at the 66th Westminster Seminar on Parliamentary Practice and Procedure held in London, United Kingdom, from November 13 to 17, 2017.

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

MISSION TO IRELAND AND NORTHERN IRELAND, UNITED KINGDOM, MARCH 5-9, 2018—REPORT TABLED

Hon. David M. Wells: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canada-Europe Parliamentary Association respecting its mission to Dublin and Cork, Ireland and to Belfast, Northern Ireland, United Kingdom, from March 5 to 9, 2018.

QUESTION PERIOD

INTERNATIONAL TRADE

AMERICAN TRADE MEASURES

Hon. Larry W. Smith (Leader of the Opposition): My question is for the government leader today. It concerns a devastating trade action taken by our largest trading partner, the United States.

As all honourable senators know, Canada is a top supplier of aluminum and steel to our American neighbours. This morning, the U.S. administration announced that it will impose tariffs on Canadian exports of steel and aluminum into the U.S., which go into effect at midnight tonight. This will have a serious impact on our industries as levies of 25 per cent will be imposed on imports of steel, and 10 per cent on aluminum.

Back in March, the Prime Minister toured steel facilities and factories across Canada, boasting of Canada's being temporarily exempted from U.S. duties. Today, the exemption has been revoked, and those steel workers who received personal assurances from the Prime Minister now face an uncertain future.

I know, senator, that it just happened today, but I think this is something that's important for us to understand in terms of transparency. What actions will your government take to defend our steel and aluminum industries and the thousands of workers across Canada they employ?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question and for giving me the opportunity, I hope, to indicate to the Senate, and on behalf of the Senate, the seriousness that not only the government but all legislators feel this action demands.

The tariff imposed today is, in the view of the government, completely unacceptable. The government obviously will be monitoring and assessing the impact on workers and communities, with a view to mitigating the circumstances and consequences as they unfold. I can say that Canada will impose trade restriction measures on up to $16.6 billion worth of U.S. imports. It is the view of the Government of Canada that U.S. tariffs are in violation of NAFTA and WTO rules, and the Government of Canada will take every measure to challenge them.

NATURAL RESOURCES

TRANS MOUNTAIN PIPELINE

Hon. Larry W. Smith (Leader of the Opposition): Thank you very much. The trade action taken today by the United States could obviously do great harm to our steel industry, which is already in a tough spot, which has been well documented. Pipeline development is important to our steel industry also. When the government came into office, there were multiple private-sector pipeline development proposals on the table. Today, there are zero.

As part of a reflection, if we look back at the importance of our steel industry and the importance of pipelines to Canada, how do you look at what the government didn't complete in terms of the Northern Gateway pipeline, Energy East, et cetera? What is your sentiment in terms of the going-forward program by the government?

• (1410)

Hon. Peter Harder (Government Representative in the Senate): I thank the senator for his question. Let me simply note, first of all, that the pipelines to which he referred were private sector decisions. Let me also indicate that the determination of the government to the Trans Mountain pipeline being built is rooted in the national interest, to which the government is committed, and I hope he has the support of the opposition to achieve that.

PRIME MINISTER'S OFFICE

ACCESS TO INFORMATION

Hon. David Tkachuk: My question is also to the Leader of the Government in the Senate. We know that Prime Minister Trudeau and the Aga Khan met at a private dinner in Paris in late 2015 and another meeting took place in Ottawa on May 17, 2016. The media reported today about an access to information request seeking correspondence between representatives of the Aga Khan Development Network and the Privy Council Office in the months prior to these two meetings. The ATIP response revealed a whopping 316 pages of emails and other documents. However, only 65 pages were disclosed and these pages were heavily redacted.

How does this access to information response fit into the Liberal Party's election promise that government information should be open by default?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. Let me first of all state that the dinner to which he referred that took place in May was one hosted by the Governor General to honour the diamond jubilee celebration of His Highness's accession to the role that he has as Muhammad of the Ismaili community. It was attended by a number of dignitaries. I was happy to be there myself.

Let there be no doubt that the relationship that Canada enjoys with the Aga Khan has existed over many years and many administrations. I note that former Prime Minister Harper's government acknowledged his contribution by the provision of an honorary citizenship. I think we are all blessed to have the Aga Khan have the affection he has for Canada. The people of the Ismaili community have contributed much. Let me, first of all, state that on the record in response to the question.

With regard to the AKDN network, it is not at all surprising to me — as I am sure it isn't to those senators who have been involved in international development issues — that it is a preferred and outstanding partner of the Government of Canada in its provision of development work and that the work that it does, just as the work of other development agencies, whether they be faith-based or otherwise, is very important. The disclosure of documents relating to that provision of services is subject to the Access to Information Act. I'm not aware of the particulars that the honourable senator is raising, but I can assure the honourable senator that the act is being duly implemented and respectful of the requirements of disclosure.

Senator Tkachuk: I want to make it clear that I don't really care who the Prime Minister is having dinner with. However, if the recipient of the dinner is getting hundreds of millions of dollars of taxpayers' money, I think he has an obligation to reveal what went on during the dinners. If the Prime Minister has been as open and transparent as he claims to be with respect to his dealings with the Aga Khan, then why was 80 per cent of the ATIP request blacked out?

Senator Harder: Again, I want to make sure that everyone understands that the Aga Khan is not the beneficiary of the relationship that Canada enjoys with the AKDN network. It is a not-for-profit charitable organization. To insinuate that it is, somehow, a personal gift to an individual demeans the spiritual and faith-leading role that he has.

With respect to the access to information request, let me reiterate that this organization, as all service providers, is subject to access to information and that is what has happened.

TRANSPORT

RAIL SERVICE FOR CHURCHILL, MANITOBA

Hon. Patricia Bovey: My question is for the Leader of the Government in the Senate. You can appreciate that I was very encouraged to learn of the deal for the First Nations groups — Missinippi Rail Limited Partnership and OneNorth and Fairfax and AGT Food and Ingredients — to take ownership of the rail in Churchill.

However, my questions now are: What are the details of the transfer? When will the deal in principle turn into action and when might we see the repairs to the line begin?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for her question. She will know that the so-called deal has just been announced and it would be premature for me to indicate, except to say that everyone is putting best efforts forward to ensure the implementation of this agreement as quickly as possible so that those affected can see hope in their future.

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

ROLE OF CHINA IN DOMESTIC AFFAIRS

Hon. Thanh Hai Ngo: My question is for the Leader of the Government in the Senate.

Last week, I questioned Air Canada's designation of Taiwan as part of China. China's economic influence has now caught up with the Royal Bank of Canada. Both the Australian and the U.S. governments have spoken out against Chinese harassment of their private companies but Canada has said nothing. What is the government's position on China's interference in our domestic affairs?

Hon. Peter Harder (Government Representative in the Senate): Again, I want to assure all senators that the Government of Canada stands ready to support private sector concerns, should they be voiced.

The action and activities of private sector organizations in China are for them to determine. The question last week was with respect to websites and the Government of Canada doesn't have an interest in reviewing the websites of private sector organizations.

Senator Ngo: The impact of China's political activities in Canada is profound. The rising influence in our most prominent private sector is a real threat to our national security and it hampers our international reputation. The example of Air Canada should warrant more attention from the government because Canada courts one of our businesses to advance its political expansionist objective which goes against our interpretation of one Chinese policy.

I looked into air flight expansion with China and noticed that figures demonstrate that China has 110 per cent more flights coming into Canada than we do. Currently, Chinese carriers are fully utilizing the maximum available, namely 76 flights per week to Canada, while Canadian carriers are only able to access 35 per cent despite a growing demand for more flights.

What is the government doing to ensure that Canadian air carriers are able to access major Chinese airports and allow them to utilize rights rented in the China-Canada air transportation agreement?

Senator Harder: Again, I thank the honourable senator for his question. Let me remind all honourable senators that the expansion of air relationships between Canada and China has grown significantly over the last number of years to the benefit of both Canadian and Chinese carriers. It reflects itself in the numbers of tourists that come to Canada from China. Air travel is very facilitating of that, both to the large urban centres and now the secondary markets that are opening in both Canada and China. These are subject to negotiations. Everyone I speak to speaks positively of the way in which these markets are opening up.

I think it's very important, given the preamble rhetoric of the honourable senator, that we acknowledge that China is an important economic partner of Canada. Yes, there are occasions where we have different interests and we need to articulate those and advance our interests, but we need to do this in a fashion that continues to have the benefits of our economic relationship whether it's agriculture and agri-food or the tourism industry, which is benefiting so significantly.

FISHERIES AND OCEANS

SURF CLAM QUOTA

Hon. Norman E. Doyle: Honourable senators, my question today is for the Leader of the Government in the Senate and is about the awarding of the surf clam quota, which the Conflict of Interest and Ethics Commissioner is now investigating. The company that was awarded this quota did not meet required criteria and the minister knew that as court documents have shown. As this company didn't even have a ship to harvest the quota and had less Indigenous participation than the other applicants, how could the minister approve that bid?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. He will know that when the minister appeared in this chamber, he defended and described how important, in his view and the Government of Canada's view, the Arctic surf clam fishery is in broadening its distribution to Aboriginal peoples.

• (1420)

He also reminded this chamber that the previous government went through a similar process to increase access to this fishery, and the Government of Canada remains committed to the decisions that have been made.

Also in his question, the honourable senator referenced the Conflict of Interest and Ethics Commissioner. As the minister made clear, both in the house and out, he is always happy to work with the said commissioner to ensure the integrity of the process.

Senator Doyle: Innu and First Nations chiefs in Newfoundland and Labrador have called for the licence to be revoked. Leader, given all we have learned in recent weeks about the awarding of the licence, will the government finally do the right thing and restart the bidding process?

Senator Harder: It is not the intention of the government at this point to do that.

TRANSPORT

CHAMPLAIN BRIDGE

Hon. Leo Housakos: Honourable colleagues, my question is for the Leader of the Government.

Senator Harder, on Tuesday you tabled an answer to one of my many previous questions on the contract with Signature on the Saint Lawrence and the Champlain Bridge. Let me quote your answer:

> Amending the contract to remove tolls does not impact the project schedule.

On that same day, the Auditor General tabled his report, and let me quote the report:

> In November 2015, the federal government requested the removal of toll collection from the design of the new bridge. We found that this project change had significant implications for the project, and reaching agreement on it proved time-consuming.

"Significant impact," the Auditor General says.

Senator Harder, who is telling the truth here? Is it your government or is it the Auditor General?

Hon. Peter Harder (Government Representative in the Senate): I'm delighted to see the honourable senator defending the Auditor General. Let me simply say that the Government of Canada is confident in its answers.

Senator Housakos: Government leader, what I'm defending is trying to get to the bottom of the truth here.

Still with the removal of tolls, in his report the Auditor General also says the following:

> In February 2018, the parties reviewed all foreseeable implications of the change so that the contract would adequately reflect them. The discussions were important because, once an agreement was reached between the parties, it would be binding. As of the publication of this audit report, the parties were finalizing negotiations on the mechanism to compensate the private partner for increases in heavy truck traffic, and on total financial impact of the project change.

Senator Harder, could you tell us when the government expects those negotiations to be completed? And can you tell us approximately how much more are Canadians on the hook? How much more should we expect to pay as a result of Justin Trudeau's politically expedient decision?

Senator Harder: Again, I thank the honourable senator for his question. Let me also refer to the Auditor General's report where he speaks of the delay in decisions being made by the previous government over many years, the deterioration of which led to increased costs because of the load reduction on the old bridge. That was part of the whole factoring in of costs.

With regard to the project, let me reiterate that the minister visited the new facility late last week, and he has publicly stated — and let me repeat — that the government expects this project to be delivered by December, as expected.

[*Translation*]

HEALTH

ADVISORY COMMITTEE MEMBER—
PRIVATE SECTOR EMPLOYMENT

Hon. Claude Carignan: My question is for the Leader of the Government in the Senate. Leader, we recently learned that Dr. Mark Ware joined Canopy Growth Corporation as its chief medical officer. Canopy Growth is one of the largest producers of cannabis in Canada. Dr. Ware was a member of the task force that recommended legalizing cannabis, and for those who remember, he appeared before the Social Affairs, Science and Technology Committee just a few days ago as part of its study of Bill C-45. That was just before he joined Canopy Growth. He came here to sell the legalization of cannabis claiming to be an independent witness.

Senator Harder, how can members of the task force put themselves in such a conflict of interest? Furthermore, why did the government not require that members of that task force be unable to personally benefit from the task force's recommendation to legalize cannabis?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I will take the question under advisement, but I want to assure the honourable senator that it is not the view of the Government of Canada that it should circumscribe or otherwise prohibit the private sector from engaging talent, other than to ensure that the ethical and other guidelines that are necessary for appropriate engagement be respected.

[*Translation*]

Senator Carignan: Leader, ministerial assistants are not allowed to join a company that does business with the government for five years after leaving their position. What we are seeing here is that the task force members are able to directly benefit from their position and the legalization of cannabis. I have a hard time believing that the government could have left such a gaping hole in the commitments it made regarding members of that task force.

Senator, will you commit to releasing the agreements signed by the task force members so that we may know what ethical commitments were made by Dr. Ware?

[*English*]

Senator Harder: Again, I will take that under advisement and seek to receive a response. However, let me repeat that a number of Canadians, from a number of walks of life, have taken advantage of the emerging market to make career decisions, and I think that is to be commended, even if they are former politicians.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, before we start debate on Bill C-45, let me summarize the terms of the order that we adopted earlier today. Debate will, up until next Wednesday, be structured by themes. Today we are dealing with issues relating to cannabis production, including matters such as cultivation, home growth and agricultural production, generally. Speeches and amendments are to only deal with that theme. A senator can speak only once to the third reading motion today, but can also speak once to any amendment or subamendment moved. Each speech is limited to a maximum of ten minutes, including any questions. There has been agreement that there will be no extensions, so no such request should be made. If there is a request for a standing vote the bells will ring for 15 minutes, and the vote cannot be deferred.

Let me thank all senators in advance for their cooperation in making this debate productive and useful.

CANNABIS BILL

BILL TO AMEND—THIRD READING—
DEBATE ADJOURNED

Hon. Tony Dean moved third reading of Bill C-45, An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts, as amended.

Hon. Vernon White: Honourable senators, I rise today to speak to Bill C-45, and more particularly, an amendment I wish to bring forward pertaining to homegrown cultivation of cannabis.

There are many issues to be discussed and debated here on the cannabis legislation, but I will focus today on the amendment I will bring forward and the reason I am asking you to agree to amend the current legislation before us.

The legislation that arrived at the Senate identified that individuals would be permitted to personally cultivate a specific amount of product for their own use. The discussion about personal cultivation might be one of the most contentious, even among those who support the legislation.

In understanding the impact of personal cultivation, we should look to other experiences and the knowledge of others, as we in Canada have little to look to.

In this discussion, I could refer to the evidence and concerns raised by police authorities who have stated that they are not prepared to manage the checks and balances required to determine the differences between licit and illicit product, but I will leave that to others.

Instead, today I will speak to other areas of concern when it comes to environmental health relating to cultivation of personal cannabis product.

• (1430)

In a study completed by the National Collaborating Centre for Environmental Health, a Canadian research body, into U.S. jurisdictions where cannabis has been legalized and, to a lesser degree, the province of British Columbia, where we have reportedly seen an increase in personal cultivation, the evidence is clear. The study argues that where greater access to cannabis in homes has been found, including cannabis plants, products and waste, there have been increased risks to children, who have often unwittingly or unknowingly accessed and consumed cannabis. The B.C. study alone has shown a doubling in poison control centre calls for children between 2013 and 2016 related directly to cannabis product consumption.

As we can see, the potential for accidental access by children will increase based on the personal cultivation provisions of the legislation, and this has been identified in the studies noted. Many consider access and accidental consumption as strictly young people trying their parents' pot, but it can be and is much more, as we have seen in the studies completed.

Many have also argued that a reason we should reconsider personal cultivation is that there could be multiple environmental health concerns.

Concerns have been raised in relation to the humidity caused by cannabis growth as well as the potential for mould within the private residences of growers. The challenge with cannabis is that the humidity and mould can have a detrimental impact on the health of individuals within the residence or, importantly, within adjoining residences and apartments. The mould and humidity are known to impact directly on those afflicted with respiratory conditions and, as noted, can impact not only the residents found within the home but those in adjoining residences as well. On top of this, the costs of remediation to a residence, should mould become an issue and have an impact, can be in the tens of thousands of dollars or more and again can impact not only the grower's residence but also other adjoining residences.

Large university residences, public housing facilities and boarding homes have all been used as examples of where individual residences are very small and shared air very high. As one university leader told me, the hundreds of individual residences they house could result in thousands of plants, and the annual cost of remediation of mould could be in the hundreds of thousands of dollars or more, not even considering the potential health impact on the other residents.

One study noted that recommended levels of relative humidity in a home should be kept lower than 65 per cent, while through the different stages of cultivation it is known that young clone reproduction, for example, can raise the relative humidity well above 70 per cent to be successful. It is also identified that a single mature plant produces the equivalent moisture of five to seven average-sized regular houseplants. To top this off, the irrigation practices found within successful home grow can also dramatically impact the relative humidity of the residence.

In this regard, the most serious concern I raise is for the secondary residents of the home — in particular, children and the elderly — but as well the impact this will have on multi-unit residences. Many would argue that in a person's home they should be able to grow plants, but when we consider the detrimental impact it can have on that residence, the adjoining residences and the property that may be owned by third parties, I argue we must provide protection to those third parties when we know the risk, and we know the risk.

It is known that ventilation rates are generally low in most climate-controlled, energy-efficient Canadian homes. In a modelling exercise conducted, it was found that as few as four mature cannabis plants were sufficient to cause a problem with the relative humidity and moisture of the home. It has also been found that mould and mildew potentially found on plants can contribute greatly to the potential health concerns already raised in the previous humidity discussion.

As I have identified a few of the reported concerns regarding personal cultivation of cannabis indoors, my proposed amendment would state that personal growth of cannabis would not be legal in Canada but rather be a ticketing offence — in other words, often referred to as decriminalization similar to what occurs now within the legislation for five or six plants.

The reasons for not allowing personal grow, as noted, focus on the health issues of residents and those in adjoining residences and apartments, and of course, landowners. I have also touched briefly on the potential for accidental consumption, which, as I have noted, has been a problem in other jurisdictions where the law has allowed for such growth.

But really, my focus is to limit the potential for personal growth to impact negatively on third parties: landowners or landlords who are renting out an apartment or multi-unit residences, those who are trying to ensure the safety of other residents and often co-residents, trying to maintain the standards of their investment, or trying to keep their insurance intact, as some companies have cancelled in other jurisdictions, and often, where the rental unit is attached to their own property, who are putting themselves and their own families at risk.

So in essence, I believe we should follow the lead of others who have suggested that we not allow personal growth — in the beginning, at least — to maintain the safety and security of our communities and our citizens.

Our legislation today offers law enforcement a measure of discretion on personal growth that exceeds the lawful authority to five or six plants, where the police may use the ticketing offence provisions of Bill C-45 or, if appropriate, go through the criminal process. I am proposing that this be extended to all personal cultivation.

For clarity under the current legislation, four plants or fewer would be legal, five or six plants would be illegal but a ticketable offence, and seven or more would be processed through a criminal regime. I am proposing that we treat six or fewer plants the same by making it unlawful to cultivate but managed through the legislation's already-existing ticketing scheme.

On the personal cultivation front, I would argue that we will have time to allow that access at a later time, if deemed appropriate, at a time when we have the knowledge and evidence to make that informed decision, which today we do not. At the same time, not allowing personal cultivation would let us protect third parties who may be affected.

Some would argue that some amendments are meant to protect people from themselves. In this amendment, I am stating that this is about protecting the public from other members of the public. It would give us the time we need. I'm suggesting we not allow personal cultivation; rather, for six plants or fewer, law enforcement uses their discretion for a ticketing regime.

To quote the Prime Minister of Canada, "It was never about a money-maker. It was always about public health, public safety." If this is true, then let us walk slowly and softly, trying as we may to provide the safety net Canadians expect of us.

The Prime Minister of Canada stated:

> We feel that regulating it, controlling it will bring that revenue out of the pockets of criminals and put it into a system where we can both monitor, tax it and ensure that we are supporting people who are facing challenges . . . .

If this is true as well, then let's make this a regulated, controlled system where we ensure that the cannabis used is grown by experts in the controlled environments found within the regulations and laws of this country. Let us allow the companies that have invested billions to succeed while protecting landowners, families and children.

The Hon. the Speaker: Senator White, normally I would not interrupt a senator's speech on this matter, but because we are playing with a new rule deck now with respect to strict time limits, I must caution you, since you've already indicated that you wish to move an amendment, you have two minutes left in your speech, and if you do not get to your amendment before that two minutes is up, you will not be given additional time to move it.

MOTION IN AMENDMENT NEGATIVED

Hon. Vernon White: Thank you very much. Can I start over again, Your Honour? For clarity, we will not be able to put the peel back on this orange.

Therefore, honourable senators, in amendment, I move:

> That Bill C-45, as amended, be not now read a third time, but that it be further amended
>
> (*a*) in clause 2, on page 2, by replacing line 41 with the following:
>
> "(2), 11(1) or (2), 12(1), (4) or (7), 13(1) or";
>
> (*b*) on page 6, by deleting clause 5.2 (added by decision of the Senate on May 30, 2018);
>
> (*c*) in clause 8, on page 7,
>
> (i) by deleting lines 13 to 15, and
>
> (ii) by replacing lines 16 and 17 with the following:
>
> "**(c)** for an individual to possess one or more cannabis plants; or";
>
> (*d*) in clause 9,
>
> (i) on page 9, by replacing lines 26 to 30 with the following:
>
> "**(c)** for an individual to distribute one or more cannabis plants;", and
>
> (ii) on page 10, by replacing line 30 with the following:
>
> "(1)(a)(i), (iii) and (iv) and paragraph (c) — or sub-";
>
> (*e*) in clause 12,
>
> (i) on page 13, by replacing lines 15 to 35 with the following:
>
> "harvest any cannabis plant or any other living thing from which cannabis may be extracted or otherwise obtained, or to offer to do any of those things.",
>
> (ii) on page 14,
>
> (A) by deleting lines 6 to 13, and
>
> (B) by replacing lines 15 and 16 with the following:
>
> "of age or older who contravenes subsections (1) or (4), or any organization that contravenes sub-";
>
> (*f*) in clause 14, on page 15, by replacing line 18 with the following:
>
> "12(1), (4) or (7) or 13(1).";
>
> (*g*) in clause 51,
>
> (i) on page 29, by replacing lines 23 and 24 with the following:
>
> "the contravention of paragraph 8(1)(e) or 9(1)(c) in respect of up to six cannabis", and
>
> (ii) on page 30,
>
> (A) by replacing lines 8 and 9 with the following:
>
> "the contravention of subsection 12(4) in respect of up to six cannabis plants; and", and
>
> (B) by deleting lines 10 to 12;
>
> (*h*) in clause 182, on page 107, by replacing line 21 with the following

"(4) or (7), 13(1) or 14(1) of the *Cannabis*";

(*i*) in clause 208, on page 119, by replacing lines 17 and 18 with the following:

"section 9(1) or (2), 10(1) or (2), 11(1) or (2), 12(1), (4) or (7), 13(1) or 14(1) of the *Cannabis Act*, or";

(*j*) in clause 214, on page 120, by replacing line 37 with the following:

"(2), 11(1) or (2), 12(1), (4) or (7), 13(1) or 14(1)"; and

(*k*) in clause 225, on page 124, by replacing line 13 with the following:

"(2), 11(1) or (2), 12(1), (4) or (7), 13(1) or 14(1)".

• (1440)

I'll now do it in French if I may. Thank you very much for your consideration.

The Hon. the Speaker: In amendment, it was moved by the Honourable Senator White — shall I dispense?

Hon. Senators: Dispense.

The Hon. the Speaker: On debate?

Hon. Rose-May Poirier: On the amendment, honourable senators. I rise to speak in support of Senator White's amendment in banning home cultivation. First off, I would like to acknowledge the tremendous work done by the National Defence and Security Committee, the Legal and Constitutional Affairs Committee, the Aboriginal Peoples Committee and the Foreign Affairs Committee. As a member of Social Affairs Committee, their report recommendation and observations were crucial to the study of Bill C-45.

On the issue at hand, my position since my speech at second reading has not changed. I'm still opposed to home cultivation. In fact, after listening to various expert witnesses, I am more convinced than ever that home cultivation must be taken out of Bill C-45. The government has stated at every opportunity that Bill C-45 was a public health approach, and as the Minister of Health Ginette Petitpas Taylor has clearly stated in her opening remarks at our committee on March 28:

> I believe that our public health approach to Bill C-45 is a part of that healthier future... Strong legislation and regulations to strictly control cannabis are essential to the protection of public health and safety. Our top priority, as we move ahead with the legalization and regulation of cannabis, is to keep it out of the hands of our youth.

Now, keep in mind the Minister's message of a public health approach because when Benedikt Fischer, Addiction Chair and Professor at the Department of Psychiatry, University of Toronto and the Canadian Research Initiative in Substance Misuse appeared in front of the Social Affairs Committee on April 18, he said the total opposite and I quote:

> First is the provision of home growing. In my opinion, it's categorically misguided as part of the supply scheme for cannabis in a public health and strictly regulated approach. It's a recipe for people producing cannabis that is unregulated, to expose minors and other vulnerable people who shouldn't be exposed to cannabis and a recipe for diversion. It doesn't belong in a public health oriented supply framework for cannabis. The provision should be scrapped.
>
> We are strict about who can distribute in terms of retail stores, what products are available and who will have access, but then at the same time, we're saying, "Well, but if you don't like those official access mechanisms, you can grow the stuff at home." It's four plants according to the law, but who will control it? Will the police go into the house and check?

He was not the only one, honourable senators. So was Dr. Harold Kalant, Professor Emeritus ,Faculty of Medicine, University of Toronto who appeared on April 16 and I quote:

> One measure that the Senate could take to help prevent that would be to limit the number of outlets, to provide for a local option of areas and municipalities that do not want the legalization, and to cancel the provision for home growth, because it is obviously impossible to monitor that home growth, because it is obviously impossible to monitor that home growth will be restricted to four plants, what members of the family will have access to it, including even adolescents, and to ensure that none of it gets into the black market.

Not only at the Social Affairs Committee, but also at the Standing Senate Committee on Legal and Constitutional Affairs, they have heard many concerns. For example, on March 29, the Centre for Addiction and Mental Health opposed home growing and said it was not required. It goes against a public health objective. L'Association des médecins psychiatres du Quebec, on April 18, suggested to prohibit home growing for non-medical purposes.

And during the Committee of the Whole on February 6, 2018, the Honourable Ginette Petitpas Taylor explained home growing as follows:

> When examining the bill, the House of Commons debated whether to change the provisions regarding home growing. The bill would allow adults to grow up to four marijuana plants per residence. The objective of allowing limited home growing was twofold: first and foremost, to prevent the needless criminalization of otherwise law-abiding Canadians who grow a small number of plants for reasonable personal use; and second, to help eliminate the illegal market. The approach we are proposing is based on the recommendations of the Task Force on Cannabis Legalization and Regulation and on the approach adopted by most of the American states

> that legalized cannabis. What is more, under no circumstances will commercial size grow-ops be permitted in personal residences.

Not only the Minister of Health but also Mr. Bill Blair, the government's spokesperson on Bill C-45, insisted on strong regulations for home growth. Mr. Blair talked on Monday about strict regulations, zoning and how provinces can impose their own restrictions on home cultivation.

I question, honourable senators, how do we regulate if someone has four plants, eight plants or 10 plants? We have heard time and again how this is enforceable. Many municipalities and police organizations expressed their concerns on how to enforce this regulation and to properly do it would require resources they do not have. For example, Chak Kwong Au, a councillor from the City of Richmond, appeared in front of the Social Affairs Committee on March 29 and I quote:

> There are five issues that we are concerned about. The first one is home cultivation. We are concerned that the bill as is will allow people to grow marijuana at home...If people can just grow their own marijuana at home, there will be no way to control it. We cannot send police officers to knock on every door or respond to every complaint and do an investigation...Kids will have more opportunity to get in touch with the marijuana because it can be grown in a place where kids on their own or kids of other people might be present.

At the Legal and Constitutional Affairs Committee, they also heard from Yvon Soucy, from the Féderation Québécoise des municipalités, and I quote:

> However, the Quebec bill will completely prohibit growing cannabis plants at home. The FQM backs Quebec's approach on this matter. Indeed, it would seem difficult to control the number of cannabis plants a citizen will have in his home in rural areas. The municipalities we represent have neither the resources nor staff to enforce that provision. We would prefer that cannabis be grown in secure, well-monitored location.

The committees also heard from different police associations who have said they did not have the resources to properly enforce this law. For example, the Legal and Constitutional Affairs Committee on March 29 heard from the President of the Canadian Police Association and I quote:

> Some aspects of this legislation will, quite simply, be impossible to effectively enforce, regardless of any additional funding provided by the government. Allowing individuals to cultivate and possess up to four marijuana plants is one specific example. I have difficult imagining how any police service in the country will have the resources, whether financial or personnel, to monitor this particular provision.

Finally, the Province of Quebec has shown leadership and wisdom in prohibiting home production. Jean-Marc Fournier, Minister responsible for Canadian Relations and the Canadian Francophonie explained the province's position which should be applied to all of Canada, and I quote:

> Quebec has intended to pass legislation to protect public health and safety, particularly when it comes to young people. Because we need to protect public health and safety, we propose permitting the production of cannabis only by authorized producers for a number of reasons.
>
> The first is to limit access and prevent the trivialization of cannabis from for minors and young adults, since access is the major determining factor in cannabis use. The second reason is to be able to provide relevant information at points of sale. This would allow us to assess whether some customers need to be referred to appropriate social services. Home production prevents us from providing relevant information and assessing whether some customers might have special needs associated with cannabis use.
>
> The third and final reason is to limit the illegal sale of cannabis and to avoid creating networks.

I'm going to close. I think my time is coming to an end. At the end of the day senators, what good is it to have a regulation that is unenforceable? It would be irresponsible to put the burden of this responsibility on the provinces, the municipalities and the police force, especially when they are telling us they don't have the means to enforce it.

Finally, honourable senators, with the evidence that I've provided to you in very little time, the question, in my opinion, is as follows: Is the reward of allowing home cultivation of four plants worth the health risk of the law and regulations that are unenforceable and contrary to public health policy? We have to take a close look at both sides where we have the health experts who are the most knowledgeable on this issue. We have the various police associations and municipalities who will need to enforce it, all having their own concerns over how effective it will be and how nearly impossible it will be to enforce.

• (1450)

On the other hand, we have the government, who never addressed the home growth and claims this is a necessary step in eliminating the illicit market. How effective can an unenforceable regulation be to eliminate the illicit market? I know what side I will be on, and it will be on the expert side, to protect our health and to protect our homes.

Hon. André Pratte: Honourable senators, I envy those who can have a clear point of view of this issue because it is a complicated issue. The McLellan task force noted:

> Few topics of discussion generated stronger views than the question of whether to allow Canadians to grow cannabis in their homes for their own consumption. There are strong arguments both for and against allowing the personal cultivation of cannabis . . . .

I think that is the case. There are good arguments for and against, which renders this issue quite complex and difficult.

First of all, if we are going to make cannabis legal, it's a little bit illogical to then tell people they can't grow it at home. It will be a legal product.

There are good arguments to say that if you grow it at home, then you will not try to get it in the illicit market. For instance, people who live in remote areas, where it will be difficult to access it through legal means, will find it easier to grow it at home. People who have low economic financial means will find it easier to grow it at home, more economical than to buy it on the illegal market and will be less tempted to go to the illicit market.

I find that risks associated with growing it at home are often widely exaggerated, associated usually with large installations, mould, fire risks, and so on, and not with small installations.

The latest Statistics Canada survey on cannabis use in Canada, published on April 18, indicates that out of current cannabis users, only 9 per cent grow it at home or have someone else grow it for them. It's difficult to envisage that once cannabis is legally available in stores across the country, more people will grow it at home. So it will remain a small proportion of people who grow it at home.

I think there are good arguments in favour of legalizing home growth for four plants and under. But there are also good arguments against it. Many people, including people who are in favour of legalization, are worried. Think, for instance, like Mr. Fischer of CAMH, that there will be some diversion of home cultivation towards the illicit market, even though in Bill C-45 it's very clear that if you sell from home growth, it is illegal. There could be some diversion. There are good arguments.

I think because this is such a complex issue and there may be health risks, it is pretty clear that if you grow it at home and a child takes a leaf or even a bud and eats it, he won't get high. That's scientifically very clear. But there may be some health risks, and obviously there is a lot of concern across the country about home cultivation. We have to acknowledge this.

The government itself acknowledges that it was a difficult decision to make to allow home growth. In these circumstances, usually it is not the best stance for the federal, central government to decide on one policy across such a large country like Canada. It is usually better to try and have a policy that is adapted to the different regions of the country. In this case, a policy that is diverse, that is adapted to the different regions, is possible. Not only is it possible, but such a policy was unanimously adopted by the Legal and Constitutional Affairs Committee of the Senate a couple of days ago.

You will probably hear in this debate a couple of times that we have to listen to what our committees on Bill C-45 did and what they recommended. This one recommendation that was unanimous, which is now part of the bill and that this amendment would get rid of, states that for greater certainty, this act does not affect the operation of any provision of provincial legislation that is more restrictive with respect to or prohibits the cultivation, propagation or harvesting of cannabis in a dwelling house.

This means that if a province decides to have a lower limit than four plants or decides to prohibit cultivation of cannabis at home, it can do so, it will be guaranteed and their legislation will be protected in the federal act. So if a province like Quebec, Manitoba and others have already decided to do, after consulting with their population — because provincial governments are closer to their communities — and after discussing with the police, property owners and their people, consulting widely like they can do and have already done, decides to prohibit for a short or longer period, they can do so. After all, that is the beauty of our federal system. Some provincial governments may try something and others may try something else, and after a couple of years we will see what works better.

Meanwhile, having over four plants, which is a criminal offence, will stay uniform in the whole country. That's the beauty of our system. I don't think personally that having a uniform system for home cultivation is a good idea, to allow it across the country, if provinces want to do otherwise. But I don't think prohibiting it across the country is a good idea either.

I think such a compromise, as proposed by the Legal and Constitutional Affairs Committee, is a good reasonable compromise that takes into account Canadians' concerns regarding home cultivation. It takes into account the diverse needs of different regions of the country. I think in the end, it is a Canadian compromise.

[*Translation*]

Hon. Claude Carignan: Honourable senators, I support the amendment our colleague is proposing to prohibit home grown cannabis. In fact, that is one of the recommendations found in the report by the Standing Senate Committee on Legal and Constitutional Affairs on Bill C-45.

As part of its study of the bill, the Standing Senate Committee on Social Affairs, Science and Technology also heard a number of witnesses. It received reports from the four committees that took a serious look at Bill C-45, each of which also heard a number of witnesses and received a significant amount of information. Some members of the committee had reservations about this prohibition, while others were in favour of it.

Many experts have expressed concern over this measure. Honourable senators will recall when I talked about the due diligence required when we adopt new initiatives with so much grey area and so many unknowns. By allowing people over 18 to grow cannabis plants at home, we are entering into unchartered territory and it may become impossible to reverse course.

What did the witnesses have to say about this? The following are some quotes from that merit further consideration.

On March 29, 2018, at the Standing Senate Committee on Social Affairs, Science and Technology, Matt Zabloski, business strategist at the Calgary Community Standards for the City of Calgary, said:

• (1500)

[*English*]

> As the realm of personal production expands and individuals are able to grow their own cannabis, city staff have serious concerns over potential health implications and resources required to regulate non-commercial growing.

[*Translation*]

Before the same committee, this time on April 30, Michael Bourque, Chief Executive Officer of the Canadian Real Estate Association, said and I quote:

> The legislation will allow individuals to grow four plants in their home. On the surface, this sounds moderate, but the legislation doesn't limit the number of crops or the size of each plant. With proper irrigation and lighting, an individual could grow very large plants and harvest three or four crops a year. Yields could reach over 5 kilograms a year. At that level of production, four plants have the potential to cause damage to a dwelling, with associated health consequences to residents.

The police are also concerned about this new provision and were very clear on the subject. Here's what Deputy Chief Constable Mike Serr, co-chair of the Drug Advisory Committee of the Canadian Association of Chiefs of Police, had to say, also on April 30:

> To your point about what could be a recommended level, one of the bases we've used, if four plants were still allowed, which we're not in favour of, but if that were the case, on the high side that could produce 48 ounces per year . . . .
>
> Producing cannabis in the homegrown amounts, at 48 ounces, is a very large amount and more than the average person will consume in a year, so there's a lot of leftover product available for diversion.

Honourable senators, let me remind you of the objectives of Bill C-45, which are set out in the bill summary. It states, and I quote:

> The objectives of the Act are to prevent young persons from accessing cannabis, to protect public health and public safety by establishing strict product safety and product quality requirements and to deter criminal activity by imposing serious criminal penalties for those operating outside the legal framework. The Act is also intended to reduce the burden on the criminal justice system in relation to cannabis.

In all seriousness, considering the quotes I just read you, could anyone really believe that allowing four plants to be grown at home is going to help the government meet its objectives? I don't think anyone could reasonably come to that conclusion.

Now let's see what other specialists told the Standing Committee on Legal and Constitutional Affairs. On March 28, Benedikt Fischer, a representative from the Centre for Addiction and Mental Health, told us:

> . . . the current bill includes the provision for home growing, home cultivation, as if this was a necessary endeavour to legalize cannabis and make legal consumption available. We categorically believe that this is a misguided portion or piece of the law. We have extensive regulated ways of retail distribution for cannabis currently in place and proposition in the law. There are several different reasons why home growing and cultivation are really in violation of good principles of public health. You cannot properly regulate the product or enforce it even in private homes. You will expose the approximately 80 per cent of Canadians who are not cannabis users, including many vulnerable young people, to the product, potentially, and it's a recipe for diversion. Overall consistent public health approach to non-medical cannabis use and supply does not require home growing or cultivation. It's a misguided element that, in our opinion, should actually be scrapped from the law.

Honourable colleagues, at the beginning of my speech, I mentioned the precautionary principle. This is a concept that's gaining ground among governments. The precautionary principle is based on three cumulative criteria: the existence of a risk of harm, a lack of full certainty as to the reality of that risk, and the possibility of serious and irreversible damage.

This principle has been integrated into the French constitution, where it has been applied in connection with the environment and especially with health. In the case of products for human consumption, when those criteria are met, governments have to be very prudent in taking action on new issues. Quebec's minister responsible for Canadian Relations discussed this with us when he testified before the Legal and Constitutional Affairs Committee. Here is an excerpt from his testimony:

> The bill we are currently considering implies a transition. We are going from a position where everything cannabis-related is a crime to a position where some cannabis-related activities are no longer a criminal offence. Fine. Do you really have to open the door so wide right away? You won't be able to close it later.

The government repeatedly stated its intention to listen to scientists and experts before making decisions. The expert testimony speaks volumes on the matter. We are here to protect Canadians and young people. That is why I urge you, honourable senators, to do the reasonable thing and support Senator White's amendment.

[*English*]

Hon. Art Eggleton: Honourable senators, I, like Senator Pratte, have views that see this not so much as a black and white situation. In fact, I have reservations about this matter of home cultivation. It might have been better to leave this aspect for another year and address it at the same time as edibles to give us more time to see how the first part of this goes into effect.

But what the committee came to a decision on is a reasonable compromise, and I intend to support it. And that is that we allow the provinces to determine what is best for their regions, what is best for the people in their part of the country. They will have that opportunity through the amendment that we put into the bill.

With respect to this specific amendment, the proponents of the amendment have drawn on the testimony of different witnesses. Witnesses, by and large, by the way, that they proposed appear before the committee. So they obviously heard what they wanted to hear from the witnesses that they proposed.

There is another side to the coin, and I think you will hear this throughout this debate for the next week. People will draw on the witnesses they want to draw on, and I will do the same thing, but I will tell you in the context of what we heard in the committee, which is a different point of view.

We had, for example, on the question of mould and the question of children, which I heard coming in the proponents of the motion, we also had another expert witness, in addition to the ones they mentioned, Jonathan Page, who is an adjunct professor in the Department of Botany of the University of British Columbia. He has spent his scientific career deciphering the genetic and biochemical secrets of medical plants. He addressed this issue of mould and humidity and environmental concerns, understanding that some of that is true when it comes to illicit grow-ops that have existed. And they are illicit, and they have been tackled by police forces across our country. They have, in fact, been closing them down.

When it comes to this question of four plants or less, it's interesting what he said:

> In terms of moisture, having a shower without the fan on, in a basement, over a period of time, will probably put more moisture into a home than four plants that are just watered judiciously in regular pots.
>
> My house has more than that nine square feet just of regular orchids that my wife really likes. In terms of the moisture coming out of those plants, I'm sure that boiling a pot of spaghetti in the kitchen is generating more moisture. So I don't think we can fear monger based on some of the horror stories around illicit grow ops when we're talking about four-plant-limit personal cultivation.

He went on to talk about the issue of children, saying, quite clearly, that children are not going to get high by eating a plant. You have got to heat it. You have to prepare the plant in a way that makes its THC a product that you would be consuming. But if a child happens to nibble at a plant itself, absolutely nothing, he quickly pointed out, would happen. In fact, the child would probably find it quite repulsive because it really is a very bad taste.

• (1510)

I wanted to put those things on the table because we should not mix it up with the old grow ops. We should not, in fact, hear just one side of the story in terms of what expert witnesses came and told our committee. We heard a variety of stories, and sometimes it created a problem of who to believe. You have experts on both sides. But I think since you're going to hear one side of the story from the proponents of this, I wanted to make sure you heard from the other side.

I think it's also fair to point out that in condominiums and apartment buildings, the owners will have some control over that. Certainly, I know of many condominium buildings that have been asking me about it; they plan to ban the product happening in their buildings. I think we can get this under control, and I think the compromise the committee came to is a reasonable one to follow. Let the provinces determine it, like Quebec and Manitoba, who said they want to go down to zero, and that's fine. Let them do that, and any other province can do it as well.

Hon. Dennis Glen Patterson: Honourable senators, I rise today to speak in support of Senator White's proposed amendment to prohibit homegrown marijuana for recreational — and we should note, not medical — use.

Over 25 days in February and March, I travelled in Nunavut to discuss this issue. The feedback I received has led me to believe that there are unintended consequences that may not have been considered fully by the drafters of this legislation, particularly in Aboriginal communities.

There were strong concerns widely expressed about the homegrown issue in my meetings. In Cape Dorset, during my February 10, 2018, community meeting, an employee of the Nunavut Housing Corporation there described his apprehensions with the bill. He warned: "This could lead to increased water usage. It could lead to fires. There could also be a significant increase in energy consumption."

The Standing Senate Committee on Aboriginal Peoples had completed a study on housing in Inuit Nunangat in March 2017 and found that severe overcrowding, the housing shortage, the poor quality of the existing housing stock, overworked ventilation systems and already significant overcrowding have contributed to an issue of mould. The report states that:

> . . . mould in housing units adversely impacts the health of community members, who have higher rates of respiratory tract infections.

And that is not to mention TB. The addition of moisture related to growing the plants could well exacerbate the mould problem that already exists, further negatively impacting the health and well-being of the household's residents.

However, I don't think this is an issue that is only relegated to the North. In fact, the same committee, in its study of First Nation housing on reserves, found the exact same conditions in the houses it toured.

As I stated yesterday, the Aboriginal People's Committee received testimony from the director and general counsel at the Department of Justice Canada who said that since this bill is a law of general application, First Nations would not be empowered to prohibit the cultivation of marijuana, as described in the bill, with a bylaw. Instead, First Nations would be reliant on the province or territory to prohibit cultivation. This would not only put them at a higher risk for health hazards related to exposure to mould, but I maintain it severely impinges upon a First Nation's inherent right to self-government protected in the Constitution.

In my travels throughout Nunavut, I also met with the mayor and council of Cambridge Bay. During our February 13, 2018, meeting, the council voiced concerns regarding the ability to grow marijuana in your home. Mayor Pamela Gross stated: "We have small housing units or multi-unit housing and the smell can seep through the walls."

Honourable senators, I think this is a legitimate concern. I don't think it's fair that elders or families with small children — who are a very high proportion of our demographic in Nunavut, who are statistically residents of government-subsidized housing — should be exposed to the constant smell of marijuana. The point about children, honourable senators, is not about the danger of them eating a leaf or a bud; the point that was made to me in my community meetings was that having marijuana plants in overcrowded housing makes it look like it's normal and okay. And we know, especially for kids, and especially for Aboriginal kids, there are risks and dangers.

A member of my staff had the opportunity to tour the Canopy Growth facilities in Smiths Falls and described how the smell was controlled by huge ventilation systems and appropriate containment walls. These homes do not have either, so it is not a huge leap to predict that the smell from one would permeate other units.

Later in my visit to that community, during a February 14, 2018, meeting with Sergeant Jasber Dhillon of the local RCMP detachment in Cambridge Bay, I was alerted to yet another potential issue regarding homegrown marijuana. Sergeant Dhillon described a compassionate system employed by the community, and in most of our communities, to provide respite from the cold. Doors in Cambridge Bay are left unlocked so that anyone looking to escape the extreme temperatures would have a safe place to warm up in. "How are you managing it when people are allowed in and out of the cold and all doors are unlocked?" she asked.

She went on to describe the potential for an increase in "grow rips," as she termed them, wherein people break into a home for the express purpose of stealing the plants.

Honourable senators, while some of these issues may seem to be Nunavut-specific, I contend that any jurisdiction which does not prohibit the growing of cannabis in a home for recreational purposes will face similar, if not identical, issues, especially in areas facing a housing shortage and overcrowding. There may be an increase in mould and, hence, an increase in respiratory infections.

We have the image of some small plants. The fact is there are no limits on the size of these plants in the legislation. They can grow up to the roof of a house, no problem.

Multi-unit homes could have the smell of plants from one unit seep into another, and there may be an increase in break and enters. There will be yet another incentive for people to commit the crime of breaking and entering.

Senator Pratte said it was illogical to prohibit the growth of a legal product in a plant. I'll give my colleague Senator Tkachuk credit for saying that whisky is a legal product, but we don't allow the distilling of whisky in our homes.

So for all these reasons, honourable senators, I will be supporting this amendment to prohibit homegrown cannabis.

Thank you.

[*Translation*]

Hon. Renée Dupuis: Colleagues, the amendment before us, which was just presented earlier today, seeks to radically alter Bill C-45.

What strikes me about this amendment is that it fails to acknowledge the work of the many Senate committees that have carefully and thoroughly examined this government proposal. A number of committees that have studied various parts of Bill C-45 have issued observations and recommendations. This all led the Standing Senate Committee on Social Affairs, Science and Technology to adopt a report that included a number of amendments.

I want to emphasize the fact that paragraph (b) of the proposed amendment currently before us would delete clause 5.2, which was added by decision of the Senate on May 30, 2018.

Over the past few weeks and months, various Senate committees carefully examined this bill. They did not take their work lightly. This amendment, which was adopted by the Standing Senate Committee on Social Affairs, Science and Technology, introduces a clause 5.2 based on the unanimous recommendation of our Legal and Constitutional Affairs Committee, which heard opinions on both sides of the argument, as many other senators have pointed out.

• (1520)

I would like to draw your attention to the fact that when Quebec minister Jean-Marc Fournier appeared before the Standing Senate Committee on Legal and Constitutional Affairs, he told us that he believed it was important to clarify the provinces' authority to approve or prohibit the growing of marijuana at home. Minister Fournier did not ask the Senate to pass legislation on behalf of the legislative assemblies, which is exactly what the amendment before us today is asking us to do.

I believe that we have had ample opportunity, in recent weeks and months, to realize and read in the newspapers that the government of each province, according to their respective situations, intends to consult the people and carry out their responsibilities with respect to growing cannabis in private dwellings.

I wanted to make that distinction.

We have before us a bill built around a cohesive structure. We can agree or disagree with it. However, I believe that this amendment would compromise the structure and stated objective of the bill, which is legalization, by introducing a provision that would replace legalization with the proponent's stated objective of decriminalization. That is why I believe that the amendment is contrary to the bill before us. Thank you.

[*English*]

Hon. Denise Batters: I rise today to add my support for Senator White's amendment to prohibit home cultivation of marijuana in Bill C-45.

The Senate Legal Affairs Committee passed a similar amendment by a majority vote, including the Independent Senators Group sponsor of Bill C-46 who has a significant law enforcement background.

As we know, in addition to a marijuana supply sold in retail outlets, Bill C-45 will allow Canadians to grow up to four marijuana plants in their homes. This practice will not be regulated and for all intents and purposes it is practically unenforceable.

During our Legal Committee's study of this bill, we heard overwhelming evidence from so many different perspectives and so many witnesses against home cultivation. Home grows can be a definite nuisance and potentially even dangerous.

First, there is the issue of children's access to marijuana plants in the home. This Trudeau government is trying to sell Bill C-45 as legislation that will protect kids and keep marijuana out of their hands. This is a complete farce, honourable senators. Perhaps children won't be able to purchase marijuana legally from a retail outlet, but I am willing to bet that plenty of them would be able to access a marijuana plant in their own basement. How are children to avoid marijuana that is placed right inside their very home?

I have heard the argument that parents will lock up marijuana plants within the home as alcohol is often handled now. But let's think about that. First of all, honourable senators, do you recall anyone you grew up with who accessed liquor in their parents' homes when they weren't supposed to? Was that alcohol always under lock and key? If it was, was it truly impossible to get into?

Parents growing marijuana in their homes obviously have a more relaxed attitude to the consumption of marijuana which may make them less likely to consider it a product requiring strict controls or handling. There may be dwelling houses, including shared accommodations, where having a locked marijuana growing area simply isn't practical. This is especially so given that the House of Commons amended Bill C-45 to remove a height restriction on plants. As such, the plant size could be problematic in some spaces.

There is significant risk to children living in the same place as home-cultivated marijuana. First among them is accidental ingestion either of the plants, dried cannabis or edibles made from the homegrown plant.

We know that most accidents happen in the home. Younger children might not realize what they are ingesting, especially if the marijuana has been changed into an edible product. Under Bill C-45, edibles will not be regulated for purchase for another year, but in the meantime those who grow marijuana in their homes can also produce their own edibles. Marijuana can be baked into cookies or brownies. It can even be made into gummy bears, a product especially attractive to small children.

Another risk with the presence of edibles is that the high from consuming an edible product may not occur right away. This means that a child may overconsume past the recommended dose for his or her size, putting them at increased risk of overdosing.

Allowing home cultivation of marijuana also takes an important tool away from police. Currently, because marijuana is illegal, the presence of marijuana plants in a home can provide reasonable suspicion for the police to enter and search a dwelling for evidence or further criminal activity.

If home grows are permitted under the law, the police no longer have that ability to investigate simply based on the presence of a marijuana plant. The lack of clarity in Bill C-45 will also contribute to further confusion about how police should enforce this bill. For example, there is confusion about how much dried cannabis one is permitted to store in their home from homegrown marijuana plants. Also, as I explained in-depth in my report stage speech yesterday, top Public Safety, Justice and Health officials testifying before our Legal Committee could not agree on or explain what the provisions in the bill around budding or flowering plants mean. Does it mean a person is not allowed to have any plants that bud or flower, or can a person have more than four plants if they're budding or flowering? It is unfair that this legislation does not provide absolute clarity to Canadians who want to grow marijuana legally at home. They may be breaking the law without knowing.

It is especially concerning that these provisions are not understood clearly by top Public Safety and RCMP officials, given that they are ultimately in charge of training police officers on how to enforce this legislation.

Even though the law stipulates that only four plants are allowed in every dwelling house, it is practically unenforceable. Police resources are already stretched. There would be no practical means of policing whether or not home-growers are adhering to the letter of the law. This means, of course, that some people may have five or six plants but others may have 100 plants.

If police can't enter a home simply because there are plants, it is difficult for them to see or control how many are growing in a home. Where there is the possibility of larger undetected home grow-ops, there is the distinct possibility of diversion into the black market and safety concerns about growing large numbers of marijuana plants in an unregulated environment.

Home cultivation provides a major cover for a massive illegal marketplace. This is the experience of Colorado. Colorado is now the number one black market in the U.S., even though the state legalized marijuana. Colorado grows eight times more marijuana than Colorado's residents consume. The rest is illegally shipped outside the State of Colorado. New drug cartels have started up in Colorado that they have never seen before.

As well, these health and safety concerns for home cultivation are of particular concern to landlords, but they can impact the wider community as well. If each dwelling unit can produce four plants at home, what does that mean for those living in multiple unit housing such as an apartment building? Are they able to pool those plants together and, if so, how is that secured?

There are serious health risks, such as toxic mould and increased incidents of house fires affecting all the homes and inhabitants, including children and potentially neighbours. Where there is processing of home cultivated marijuana into other products, there is also risk of explosions.

For all of these reasons, the Provinces of Quebec and Manitoba have already indicated they will be banning home cultivation of marijuana. This then establishes a patchwork application of the legislation across the country and risks protracted and intergovernmental wrangling on this point. If the federal government prohibited home cultivation altogether, we could avoid these issues. Allowing people to produce their own unregulated supply of marijuana completely undermines the stated purposes of the bill.

• (1530)

The purposes listed in Bill C-45 include: protecting the health of young persons by restricting their access to marijuana, reducing illicit activities in relation to marijuana by providing for its legal production, and providing access to a quality-controlled supply of marijuana.

Allowing home cultivation of marijuana runs counter to all of these aims. For these reasons, honourable senators, I ask you to join me in voting for Senator White's amendment prohibiting home cultivation.

Hon. Frances Lankin: Let me begin by thanking all of my honourable colleagues, who have contributed so much time, energy and thoughtful reflection on the elements of bill. As a number of senators have already said, there are strong arguments, pro and con, on virtually all of the controversial issues that have come before us.

I personally don't think that there is just one right or one wrong on these things. I think that there is a lot to be learned as we move forward with the implementation of this legislation. If passed, there will be, inevitably, bumps along the road, and it's one of the reasons I strongly support an observation calling on the government to put in place a monitoring task force, as we go forward, to collect data, to monitor and to respond in real time with advice. Any good public policy practitioner, whether that's within government or within community or whatever, will tell you that developmental evaluation is such a critical part to build into our plans. As we go forward, we will find more information. We will have experiences. Things will come to bear that should cause us to evolve our thinking and to take that and make course corrections as we go down the road.

I think that's a critical thing, but it says to me also that we can't answer everything today. In some cases where, as has been said, it's not A or B or black or white or not clear, we'll have to learn with some experience.

Senator Carignan spoke about the need to use caution as we go forward, and I think caution is important, not necessarily being restrictive. We have to look at what the difference means on each of these issues. It won't be the same on all of them.

On this amendment, as with others, there is a lot of overstatement and overclaim on both sides of the argument. We really have heard some quite amazing testimonies, some that say there is no problem and some that blow-up and are scaremongering to the point of almost being comical, to the point of taking one back to the old documentaries of "reefer madness."

For example, children and access. I've heard people today try to refine this a little bit, but all the way through the committee hearings and the things witnesses said, I heard people saying, "Children, toddlers walk by and grab a piece of the plant." Well, the first thing we have to be careful about is that unless you heat that product, unless you smoke that product or put that product into a vapour piece of equipment, it doesn't release the THC. First of all, from what I heard in testimony, it doesn't taste very good, so a child is not likely do it twice. But it won't be harmful.

I want you to contrast that with a common house or garden plant called digitalis, foxglove, which is extraordinarily poisonous and, in certain quantities, lethal. Nobody raised that. Someone in committee, when I mentioned foxglove, raised poinsettias. Poinsettias are mildly poisonous as well. The white sap can produce diarrhea and vomiting. But think of a small child or a toddler that just touches the white dot. Everything goes into their mouth.

We have responsibilities as parents and as adults to make our homes safe, whether it is alcohol, cleaning products or plants. Let's not blow things out of proportion to back up a point that isn't borne out in evidence at this point in time.

In terms of moisture and mould, people have talked about the amount of moisture. Someone read about the orchids, for example. This is really true, but four plants are not going to create that problem. That problem exists within our homes. Once again, if you look at the development of what is going on in terms of growing inside, the industry is coming out with a whole new product line of small containers that look like the mini fridges you might have by a bar in your rec room. They are self-contained and have properties to contain moisture, with the right light settings and the right heat.

People are talking about plants that grow to the ceiling, and, "If they're allowed to grow 4, they're going to grow 10." It's just an overstatement and an exaggeration. What I want to say to most people is, "If you say it's unenforceable, do you think that it's being enforced now?"

I live in a rural, village part of the province. I represent more the north of Ontario. From community to community, bush properties and fields, I want to tell you, people are growing it now.

I've joked with people — and it is a joke — but I've said that people in the north would be upset if I supported four because it would mean that they'd have to cut back the number of plants they're growing now. This is in existence now, so to say we won't be able to enforce it, we can't enforce it now.

Will this allow for some diversion from the black market potentially? We should see that and we should monitor it, because I can't claim it will do that. Others have. It's part of the policy rationale for this. As I've done as much work as I can in policy analysis, I don't know that I can come to a full conclusion on that, and I would suggest nobody here can.

With respect to multi-unit residences, I've said from the beginning that the provinces have the ability to bring forward regulation, and they should. I don't think that multi-unit residences are good places to do this. I don't think people who don't want to be exposed to the scent through air vents and other things should have to be. I spent years living in apartments in Toronto and many years knocking on doors during election campaigns, and I can tell you that the smell of wonderful different cuisines and spices takes over these buildings when you're in the hallway.

I'm sorry; we live with that already in multi-units. But the provinces have the ability to restrict that, and I think that they should restrict it.

You know what else I think they should do? They've written rules around home inspection and homebuyer protection. For example, if asbestos has been removed from a house, you have to declare that. You have to reveal that so that the buyer is aware. They could put in — and I think they should — that if marijuana plants have been grown in that home, that should have to be revealed. Quite frankly, if it's a problem, people won't be buying that house. If it turns out that it's not to be such a big problem, people won't care, and it won't be a factor. But people have the right to know.

So I think there are a lot of ways of dealing with this.

The fact that an amendment has been passed and is contained in the bill we're dealing with at third reading in clause 5.2, a new clause that really clarifies what the provinces' abilities are, I'm okay with that. I'm not sure that's exactly where I would go. Sometimes I tend to be more of a centrist in terms of the federation and policy, but I do respect that in certain areas it's really important that there are jurisdictional divisions and that the provinces have a role. These are areas where the provinces clearly have a role. I think that there has been good work done to acknowledge that, and the committee has passed that amendment.

In closing, I want to say that this is a policy decision that the government has taken, and we may agree with it as individuals or we may not agree with it as individuals. But the arguments that we use are important, and accuracy in the arguments that we use is important. I think that there is an overstatement of some of the issues in the interventions that I have heard today, and I don't think that is helpful to us in terms of making a sober second thought review of this.

At the end of the day, this is a policy decision in which I wouldn't want to say that I would impose my policy view over that of the task force, the government and the House of Commons and how they have dealt with and considered this particular issue.

For that reason, I will be voting against this amendment. I have to tell you I usually find myself agreeing with Senator White, but not today.

• (1540)

The Hon. the Speaker *pro tempore*: Would you accept a question, Senator Lankin? You have 50 seconds.

Hon. Jane Cordy: I thank the Social Affairs Committee for the work they did, and my question is this: If Canadians can make their own beer and wine in their homes, should they not be able to cultivate their own cannabis if this bill passes, since the purpose of this bill is to legalize marijuana?

Senator Lankin: Yes.

Hon. Salma Ataullahjan: Honourable senators, I rise to speak in support of Senator White's amendment.

Over the past two years, I have made a point of having conversations with a cross-section of Canadians to ask them their views about legalizing marijuana. I also made a specific effort to speak with the Canadian Pakistani community about this bill, as I had not heard their voices in the discussion or in the media reporting.

I set out to bring up this bill with everyone from parents to teachers, to doctors, to taxi drivers, to service industry professionals, to young people and old, and here is what I learned from those with whom I spoke: For the most part, there was a significant lack of knowledge about the specifics of Bill C-45. In fact, a lack of understanding and confusion about the provisions of this bill was the most reoccurring theme in all my discussions and is something I found quite troubling.

While the government has advised of educational programs in schools, and I have heard some public education announcements on the radio and television, my experience is that many Canadians have no idea how exactly the enactment of this legislation will impact their lives, their children's lives, their real estate investments, their health or their safety on the roads. In this regard, the government must do more to ensure that all Canadians better understand the legislation and the numerous ways in which it may affect their lives.

Many with whom I spoke voiced their concern about the effect that the legalization of marijuana would have on their children. And I know that several senators have spoken in this place about the potential negative impacts of this legislation on children, and in this regard I will say that I echo many of those concerns that have been raised.

Further, a significant number of people did not know that individuals would be allowed to grow up to four cannabis plants in their homes. Upon learning of this provision, most questioned why it formed a part of the legislation legalizing marijuana. For parents, the thought of their children being exposed to cannabis plants when visiting the homes of friends and acquaintances when unaccompanied by a parent was worrisome at best.

Honourable senators, their fear is not unfounded. The Canadian Association of Chiefs of Police said that in light of the fact that ". . . cannabis will now be readily accessible in homes, there are risks that this may lead to increased exposure and consumption amongst youth," and that ". . . the personal cultivation provisions are counter to the Bill's stated objective of protecting youth."

There has also been concern about tenants growing marijuana in rental units and the impact this could have on real estate investments. None of the people with whom I have spoken had any idea as to what their rights or obligations will be, either as landlords of income properties or when purchasing or selling real estate properties.

This particular issue was raised by a number of people at a round-table discussion I held about Bill C-45 with members of the Canadian Pakistani community and press in Toronto. This is another valid concern. The Canadian Federation of Apartment Associations has asked that Bill C-45 be amended ". . . to prohibit marijuana growing or processing in multi-unit dwellings, and in rented dwellings of any size."

Furthermore, they said, "Growing marijuana in multi-unit dwellings, or rented dwellings, is more problematic than marijuana smoking." Their concerns included safety hazards; interference with other tenants; potential damage to the building; potential liability for the landlord and risk to tenants and the mortgage holder; potential cancellation of building insurance or the calling of a mortgage, with financially disastrous results for an innocent building owner.

Just this month, the Canadian Real Estate Association called on the government to put the brakes on letting people grow pot at home until it can better regulate it to prevent property damage and higher risks of crime and fires. CEO Michael Bourque has said that there are too many risks from home grow ops that haven't been addressed yet.

The question I have been asked most often in relation to the number of homegrown cannabis plants allowed is how that provision will be enforced and by whom.

In this regard, the Canadian Association of Chiefs of Police has said:

> From an enforcement perspective, this provision is problematic as monitoring the precise amount of plants produced in personal dwellings is restricted and cannot be managed.

Consequently, the association has strongly recommended:

> . . . against in-home production and that any provision related to personal cultivation be removed. It is expected that personal cultivation will result in over production and the manipulation of growth patterns thereby placing a greater demand on police resources, including increased calls for service and investigations."

Last month, it was reported that municipalities are scrambling to meet the challenges in preparation for the legalization of marijuana. "Legalization of production, sales and consumption of cannabis is expected to involve as many as 17 municipal departments . . . and many of the smaller communities may not have the resources," said Bev Gaston of the Union of Municipalities of New Brunswick, which represents 60 municipalities across that province.

The municipalities want to be certain that proper training for RCMP and municipal police, as well as adequate funding, is provided by the federal government. Moreover, he said that he expects the provision allowing individuals to grow up to four cannabis plants in their homes will prove challenging for municipalities. "How are we going to know how many plants people are growing?" And, "How is it going to be policed?" he asked. In his view, this provision is one that will potentially generate the largest number of enforcement complaints. In my view, this provision will create an unnecessary burden on both the human and the financial resources of municipalities across the country.

Honourable senators, these are but some of the reasons why home cultivation of cannabis should be prohibited. Further, let me remind you that upon consideration of testimony before the Standing Senate Committee on Legal and Constitutional Affairs, the majority voted in favour of a recommendation that would prohibit home cultivation of marijuana, and I am disappointed that the recommendation was rejected by the Standing Senate Committee on Social Affairs, Science and Technology.

Accordingly, I am in support of Senator White's proposed amendment.

Hon. Marc Gold: By way of introduction, I was a member of the Legal and Constitutional Affairs Committee and supported the amendment that is currently in the bill before us, which clarified the role of the provinces to regulate, indeed, even to prohibit the home cultivation of cannabis. But I don't rely upon the fact that the committee recommended it unanimously.

We, in the chamber, are entitled to make up our own minds to determine for ourselves, just as members of the Social Affairs Committee were as well, whether or not the recommendations or the bill before us really conforms and is well-grounded in principle.

I'm grateful to Senator Eggleton for pointing out — and Senator Pratte before him and many others — that this is really a policy dilemma and there are competing arguments on both sides. I'm grateful for Senator Eggleton to point out the testimony of Jonathan Page, and I'm grateful for Senator Lankin to remind us that we should be factual and not overstate the case.

Now, we're neither saints nor devils, we're just mere senators here, but we too can quote scripture, or in this case evidence for our own purpose. I won't do that. I just want to make two points. Being an academic, there will be some sub-points, but the first is factual and the second is of principle.

The factual points are simply these: I do believe that based upon the totality of the evidence, the concerns about the risks of home cultivation have been somewhat overstated at times. With regard to the question of apartments, in a previous life I was an owner of a large number of multi-family units in many cities in Canada and the United States. I am not ignorant of nor indifferent to the interests of both landlords and tenants, but the evidence was clear that four plants as opposed to grow-ops pose no material risk to the building and no greater risk to the enjoyment of the property by neighbours.

• (1550)

Second, the health risks to children have been well canvassed here. The only point I would make in response to one or more comments is that today you can make edibles. You can bake brownies and do all kinds of things with dried cannabis that you can procure — well, if it's medical — legally until this law passes, if it passes. It's not simply growing in your home that gives you the ability, for a parent who is irresponsible, to cook or put cannabis in food products and leave them around for their children.

Finally, the enforcement problem has already been noted, but it's worth underlining. If it's impossible and difficult to enforce, as I suspect it is, a rule about four, three or six plants or no plants, in practical terms, is really not the problem. We had testimony from the police that said they have limited resources. They focus on big problems and big grow-ops. They gather circumstantial evidence about whether there are really spikes in electricity use. They watch people going in and out. That's how they deal with the real problem of larger-scale cultivation. Those are the factual points.

The question of principle is simply this: I don't think, with respect to Senator White, that this amendment is really justified in the name of principle. The two principles that I would invoke, which I think are important for us, are, first, social justice and equity. Senator Pratte made the point — and it was made time and time again in questions that many of us posed to the task force and to the minister — that there are people in this country, whether in remote areas or with fewer means than we are privileged to have, for whom home cultivation will be the only access they have to the legal product. They can't necessarily afford what it will cost, $9 or $10 a gram. If you live in remote areas in the North and have to pay postage, even if you have access to the Internet, it will cost somewhat more than in downtown Ottawa, Toronto, Montreal or elsewhere. I think there is an equity issue here that we cannot forget.

The second principle is respect for regional diversity and federalism. Again, I won't repeat the points that have been made, but the plain fact is that federalism gives us, as Senator Pratte pointed out, the most elegant and appropriate way to recognize that provinces, territories and, within them, communities, have the ability to tailor this to their own best circumstances.

In conclusion, honourable senators, the bill before us contains this amendment to allow the provinces to legislate and to regulate as they may see fit, and it clears the way to avoid constitutional challenges that, by the way, would be rather predictable were we to ban home cultivation exclusively. Constitutional challenge is based on an unequal application of the law to those either because of where they live geographically or their social or economic circumstances.

The bill, as amended, is the best solution to what is admittedly a policy dilemma. That is why I do not support the amendment that's before us. Thank you.

[*Translation*]

Hon. Pierre-Hugues Boisvenu: I have a very simple question for Senator Gold. At the Standing Senate Committee on Legal and Constitutional Affairs, we welcomed Minister Fournier who came to present Quebec's position on the matter. He is a Liberal minister from Quebec who came to present that position. My question as a senator from the Montreal region is this: Senator Gold, whose interests are you representing, those of Quebec or those of the federal government?

Senator Gold: Honourable senator, first, with all due respect, I represent the senatorial division of Stadacona in Quebec City and I am proud to represent this division of old Quebec City.

Second, it is in light of the arguments we heard, including the representations and testimonies of the task force, that I became convinced that leaving it to the provinces to legislate as they see fit was, in principle, not an ideal solution, because there is nothing ideal about this legislation, but an appropriate solution. My decision has nothing to do with the positions you suggested. Respectfully, I believe I have nothing else to add.

The Hon. the Speaker: Honourable senators, Senator Gold's time has expired.

[*English*]

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, based on the debate thus far, I feel obligated to rise to be the voice of constituents I have met with, most recently this past week with a woman who lives in an apartment complex.

In response to what Senator Eggleton said, namely that "condominiums should have control over that," meaning what happens in the building, I can assure senators that, depending on the strata council and the building management, it will vary.

We know that the federal and provincial governments have met to discuss revenue sharing, but with all three levels of government, I highly doubt that they have discussed risk sharing. The municipalities have also confirmed that they have not been properly consulted, and the risks will go down.

It will actually go right down to these buildings and the strata councils that do not have the budgets, nor the expertise, to deal with the problems that we are introducing by allowing homegrown plants in these buildings.

Senator Gold, you said that we are not saints nor devils; we're just senators. Someone told me that you can learn as much from a train wreck. This is potentially a wreck that could happen on certain fronts because we don't know what will happen with all these risks that we are introducing.

As a senator, I refuse to be a bystander or a spectator because as legislators it is our duty at the federal level, to understand where the gaps are. In this case there are many gaps, and the risks will go down to these individual buildings where there will be major issues and problems. We have heard that from residents.

I'm not sure if senators are aware but this came to my attention when we had Jordan Marklund's Backpack event. Jordan died in a building because a railing was not installed. He fell to his death. The building is owned by a landlord who has no mortgage. Ontario laws have a gap. If a landlord has no mortgage, then he is not obligated to have insurance on the building nor be responsible for accidents that happen in that building. They're not looking for compensation, but there are gaps in the law. So to say that in condominiums these issues will be dealt with is absolutely not true. We have heard from residents, and there are major concerns.

The very first objective is to protect the health of young persons by restricting their access to cannabis. Isn't allowing home growing doing exactly the opposite?

I appeal to you, honourable senators, as federal legislators. We aim to be saints at times and maybe devilish at other times, but we are responsible for the laws we enact.

• (1600)

Senator White did not say let's restrict it forever. He just said that right now there are too many risks; right now, there are gaps.

We can revisit this issue; just as in our legislation for Bill C-14, which we all participated in. We ended up having a much broader middle ground where we were able to support the legislation because we amended it. I believe this is one amendment that we should support, and I intend to do so.

Hon. Mary Jane McCallum: Honourable senators, this issue has been very difficult to look at from a First Nations' perspective, as there are already so many inequities and inequalities in First Nations communities.

I have looked at this, and swayed back and forth, and thought and prayed about it, and I have a few remarks to make.

Prohibiting alcohol has never worked in First Nations communities. Alcohol and marijuana are not the root causes, but the issue of addiction is what we are looking at in terms of many of the problems that are emerging.

Many First Nations youth already use marijuana. I have called mental health workers and nurses with whom I have worked. Children as young as nine are using marijuana right now to deal with issues of abuse in their homes and with issues of food insecurity and overcrowding. If marijuana is restricted, these children will be seeking marijuana. If they don't have marijuana, they turn to alcohol. And alcohol and smoking are more dangerous than marijuana at this point.

When I look at this issue, I ask: Would the people from Nunavut recommend a zero-plant policy to the rest of Canada, based on findings from their home province? I don't think so. That is not their intent. Their intent is to restrict it in their home province, if that is what they want.

I would leave this decision to the provinces and territories, and they will consult with the people, with their own citizens. Banning home-growth will not teach youth the critical thinking skills they need to hone, nor to start to make their own decisions.

Unilateralism is something I grew up with. People made my decisions for me in residential school, and the government continues to do it through policy. I didn't learn anything. I learned to obey. My age group didn't have any critical thinking skills. Part of the problem we had with learning is that we didn't know how to parent. I wouldn't have even known what to say to my children, to sit them on the table and say, "My girl, let's talk about marijuana," because that was not allowed for us. We were not allowed conversation around dining room tables in residential school.

Youth navigates to banned substances. That is their nature. That is the reason for adolescents to try new things, not to be punished but to be taught that this is inappropriate. We were not taught that.

Appropriate public health programs will go further in having youth protect themselves. The aim is that youth make decisions; they protect themselves by learning to make good decisions.

I look at this as an opportunity for parents and leaders to speak to First Nations youth about their role as change agents in our communities, a role that was stripped from First Nations through unilateral decision making.

I believe prohibition will in fact increase criminalization among youth in First Nations communities, in the same way that alcohol does today. I wanted to give you food for thought as we continue this discussion. Thank you.

Hon. Senators: Hear, hear.

The Hon. the Speaker: Are honourable senators ready for the question?

In amendment, it was moved by the Honourable Senator White, seconded by the Honourable Senator Ngo, that Bill C-45 be not now read the third time but that it be amended — shall I dispense?

Hon. Senators: Dispense.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

The Hon. the Speaker: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: We have a 15-minute bell. The vote will take place at 4:21 p.m. Call in the senators.

• (1620)

The Hon. the Speaker: Honourable senators, in amendment, it was moved by the Honourable Senator White, seconded by the Honourable Senator Ngo, that Bill C-45 be not now read the third time but that it be amended — shall I dispense?

Hon. Senators: Dispense.

Motion in amendment of the Honourable Senator White negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	Mockler
Ataullahjan	Neufeld
Batters	Ngo
Beyak	Oh
Boisvenu	Patterson
Boniface	Plett
Carignan	Poirier
Dagenais	Richards
Duffy	Seidman
Galvez	Smith
Griffin	Stewart Olsen
Housakos	Tannas
MacDonald	Tkachuk
Maltais	Wallin
Marshall	Wells
Martin	White—33
McInnis	

NAYS
THE HONOURABLE SENATORS

Bellemare	Lankin
Bovey	Manning
Boyer	Marwah
Campbell	Massicotte
Christmas	McCallum
Cools	McPhedran
Cordy	Mégie
Cormier	Mercer
Coyle	Mitchell
Dawson	Moncion
Day	Munson
Dean	Pate
Dupuis	Petitclerc
Eggleton	Pratte
Gagné	Ringuette
Gold	Saint-Germain
Greene	Sinclair
Harder	Verner
Hartling	Wetston
Joyal	Woo—40

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

[*Translation*]

Hon. Claude Carignan: Honourable senators, naturally, I would have been in favour of Senator White's proposed amendment to prohibit home growing, as Quebec and Manitoba have done.

Many witnesses came to committee to express serious concerns about this measure. I want to share quotes from two witnesses. On March 29, Chief Mario Harel, the president of the Canadian Association of Chiefs of Police, appeared before the Standing Senate Committee on Legal and Constitutional Affairs. He said:

> Regarding in-home production, the CACP continues at this stage to strongly advocate against this measure. We predict that personal cultivation is largely unenforceable and will provide for additional opportunities for the illegal possession, distribution and over production of cannabis. We also fear that in-home production will pose a further risk to youth due to increased exposure and accessibility.

Jean-Marc Fournier, the minister responsible for Canadian relations and the Canadian Francophonie and Quebec government house leader, who testified on April 25, 2018, said the following:

> Quebec also intends to pass legislation to protect public health and safety, particularly when it comes to young people. Because we need to protect public health and safety, we propose permitting the production of cannabis only by authorized producers for a number of reasons.
>
> The first is to limit access and prevent the trivialization of cannabis for minors and young adults, since access is the major determining factor in cannabis use.

Unfortunately, Senator White's amendment was not adopted. I say "unfortunately" because I am convinced that it was the right thing to do to ensure the safety of our population, especially our young people.

• (1630)

However, we can still take action and limit the problems associated with this provision of the bill. In fact, there are serious problems with one clause in Bill C-45, which defines "dwelling-house". The definition in clause 2 of Bill C-45 on page 3 reads as follows:

> ***dwelling-house*** has the same meaning as in section 2 of the *Criminal Code*.

The definition in the Criminal Codes reads as follows:

> ***dwelling-house*** means the whole or any part of a building or structure that is kept or occupied as a permanent or temporary residence, and includes
>
> **(a)** a building within the curtilage of a dwelling-house that is connected to it by a doorway or by a covered and enclosed passage-way, and
>
> **(b)** a unit that is designed to be mobile and to be used as a permanent or temporary residence and that is being used as such a residence;

We need to understand that, according to this definition, only the building that is occupied is considered to be a dwelling-house according to the Criminal Code. However, subclause 12(8) of Bill C-45 would amend this definition and expand it to include the land that is contiguous to and subjacent to it. The clause states:

> **Definition of *dwelling-house***
>
> **(8)** For the purposes of this section, ***dwelling-house***, in respect of an individual, means the dwelling-house where the individual is ordinarily resident and includes
>
> **(a)** any land that is subjacent to it and the immediately contiguous land that is attributable to it, including a yard, garden or any similar land; and
>
> **(b)** any building or structure on any land referred to in paragraph (a).

I want to be sure my colleagues understand that this provision allows individuals to grow up to four cannabis plants on their property or even in a shed on their property. This measure has raised a lot of questions, and many people have complained about it. What does this mean for rental properties? Imagine a 16-unit building in which tenants can each cultivate four cannabis plants in their apartments. According to this new definition of dwelling-house, tenants can also grow them on the lot the building is on. If all 16 tenants decide to do that, what's the limit? There could be 64 plants on that property.

Let me give a less extreme example. Imagine a bungalow-dweller taking advantage of the new law and growing four cannabis plants on his lot. What should he do to ensure that minors, who are not allowed to possess cannabis, don't help themselves from the plants growing out in the open? Since growing is not prohibited by law, parents will have to decide how much exposure to cannabis they want their kids to have. If people grow cannabis outside, they're putting it within reach not only of their own children, but also of every other child in the neighbourhood.

Honourable senators, I see good reason for more control over home growing if we want to achieve the government's objective as set out in the summary of Bill C-45, which reads as follows:

> The objectives of the Act are to prevent young persons from accessing cannabis, to protect public health and public safety. . . .

Here is what the Task Force on Cannabis Legalization and Regulation recommended to the government:

> The Task Force recommends allowing personal cultivation of cannabis for non-medical purposes with the following conditions:
>
> A limit of four plants per residence
>
> A maximum height limit of 100 cm on the plants
>
> A prohibition on dangerous manufacturing processes
>
> Reasonable security measures to prevent theft and youth access

With the option to grow cannabis outside, we're really not taking any reasonable security measures to prevent theft and youth access.

MOTION IN AMENDMENT NEGATIVED

Hon. Claude Carignan: Therefore, honourable senators, in amendment, I move:

> That Bill C-45, as amended, be not now read a third time, but that it be further amended in clause 12, on page 14, by deleting lines 6 to 13.

The Hon. the Speaker: In amendment, it was moved by the Honourable Senator Carignan, seconded by the Honourable Senator Andreychuk, that Bill C-45 be not now — May I dispense? On debate.

[*English*]

Hon. Art Eggleton: My understanding was that the provinces could regulate whether indoor or outdoor cultivation is allowed. In fact, I think one or two provinces have already indicated that they aren't going to allow it. Is that not the case?

[*Translation*]

Senator Carignan: No. It's in the Criminal Code. Obviously, in the definition of what is criminal and what's not, senator, I think you might be confusing what is criminal and what's not. The Criminal Code tells us what's not criminal, and the provinces could legislate in their areas of jurisdiction. However, in this instance, we are changing the definition in the Criminal Code, which is entirely within federal jurisdiction, to include adjacent land, adding a new definition to the traditional term included in the Criminal Code. It already defined and continues to define the concept of dwelling-house, without any reference to adjacent lands.

Take the building where I live in Gatineau, for example. If it were in Ottawa, with its 120 condominiums, and if it had any community land attached to it, people could grow an astounding number of plants outside. I'm afraid that's the kind of space organized crime will use to increase its illegal cannabis production, as seen in Colorado.

[*English*]

The Hon. the Speaker: Are honourable senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion in amendment?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the nays have it.

And two honourable senators having risen:

The Hon. the Speaker: I see two senators rising. We will have a 15-minute bell. The vote will take place at 4:52 p.m.

Call in the senators.

• (1650)

The Hon. the Speaker: Honourable senators, the question is as follows: It was moved by the Honourable Senator Carignan, seconded by the Honourable Senator Andreychuk, that Bill C-45 be not now read a third time but that it be amended in clause 12 on page 14, by deleting lines 6 to 13.

All those in favour of the motion will please rise.

Motion in amendment of the Honourable Senator Carignan negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	Neufeld
Ataullahjan	Ngo
Batters	Oh
Beyak	Patterson
Boisvenu	Plett
Carignan	Poirier
Dagenais	Richards
Doyle	Seidman
Housakos	Smith
MacDonald	Stewart Olsen
Maltais	Tannas
Marshall	Tkachuk
Martin	Verner
Massicotte	Wells
McInnis	White—31
Mockler	

NAYS
THE HONOURABLE SENATORS

Bellemare	Hartling
Bernard	Joyal
Boniface	Lankin
Bovey	Manning

Boyer	Marwah
Campbell	McCallum
Christmas	McPhedran
Cools	Mégie
Cordy	Mercer
Cormier	Mitchell
Coyle	Moncion
Dawson	Munson
Day	Pate
Dean	Pratte
Dupuis	Ringuette
Eggleton	Saint-Germain
Gagné	Sinclair
Galvez	Wallin
Gold	Wetston
Harder	Woo—40

ABSTENTIONS
THE HONOURABLE SENATORS

Duffy	Griffin—3
Greene	

The Hon. the Speaker: There is a little bit of confusion about this, honourable senators, so let me explain. We're dealing with Bill C-45 in a thematic way. We're dealing with certain aspects of it on each day. We seem to have finished with the first aspect of it, so tomorrow we resume on the second aspect, and then Monday, Tuesday, Wednesday as follows pursuant to the order that we previously adopted.

(On motion of Senator Bellemare, debate adjourned.)

• (1700)

ACCESS TO INFORMATION ACT PRIVACY ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Ringuette, seconded by the Honourable Senator Cools, for the second reading of Bill C-58, An Act to amend the Access to Information Act and the Privacy Act and to make consequential amendments to other Acts.

Hon. Marilou McPhedran: Honourable senators, I rise today to speak on the second reading of Bill C-58. First, I would like to thank Senator Ringuette for sponsoring Bill C-58 and highlighting efforts by the federal government to expand access to information in the offices of the Prime Minister, cabinet ministers, senators and members of Parliament, as well as some institutions that support Parliament and the courts.

During Senator McCoy's second reading speech, she referenced the Supreme Court of Canada decision *Dagg v. Canada (Minister of Finance)*, which framed access to information as a quasi-constitutional right. Given the significance of the Access to Information Act, I want to take the opportunity to elaborate on some of the concerns raised previously by senators.

To be frank, Canada has a poor reputation when it comes to delivering access to information thereby undermining the promotion of a true inclusive democracy. As cited by Senator Carignan, Canada is ranked eighteenth out of 180 countries on the Reporters Without Borders 2018 World Press Freedom Index. I speak from experience as a researcher. Our low ranking is largely due to delays caused by access to information requests. The ability for Canadians to access information has been ranked forty-eighth globally by the Centre for Law and Democracy.

Access to information is regarded as an integral part of the fundamental right to freedom of expression in the Canadian Charter of Rights and Freedoms. This has been affirmed by the Supreme Court of Canada in *Ontario (Public Safety and Security) v. Criminal Lawyers' Association*. In addressing whether access to information is protected under section 2(*b*) of the Canadian Charter of Rights and Freedoms, the court concluded:

> Section 2(*b*) guarantees freedom of expression, not access to information. Access is a derivative right which may arise where it is a necessary precondition of meaningful expression on the functioning of government.

This places access to information within the protection of our Constitution.

Access to information is not limited to national importance. It's held as a right associated with freedom of expression as an international standard as well. This is recognized in one of the first joint decisions after the founding of the UN, in resolution 59 of the UN General Assembly adopted in 1946. As well, it is recognized in Article 19 of the Universal Declaration of Human Rights, 1948. This is the most widely translated document in the world. Article 19 states:

> Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Given Canada's opportunity to raise its international standard by strengthening access to information through this bill, it is important that the Senate report on whether the proper mechanisms and safeguards are there to promote access to information.

As this bill proceeds to committee, there are two issues in particular that I am asking the committee to consider. First, proposed section 6 of the bill allows a head of an institution to decline to act on a request that they consider to be "vexatious." I agree with many witnesses in the House of Commons Standing Committee On Access to Information, Privacy and Ethics, including then Information Commissioner of Canada, Suzanne

Legault, who urged that section 6 be removed from the bill as it poses a risk of the government rejecting claims that are too vaguely defined or, frankly, just too annoying.

As stated by Nick Taylor of the Canadian Association for Journalists, reporters "will not always have all of that information at their disposal."

Section 6 not only raises concerns among journalists but also with some Indigenous leaders. Shuswap Nation Chief Judy Wilson, who moved the motion adopted by the Assembly of First Nations that called for the rejection of this bill in 2017, said the government is erecting too many "bureaucratic barriers" by introducing the additional criteria listed in section 6.

As well, land claims need evidence, and much of that evidence is held by the Department of Indigenous Services and not readily accessible, even now. Section 6 will exacerbate this blockage, stopping Indigenous researchers from getting the records needed to pursue certain land claims.

Second, the bill should ensure that fees will not increase for requesters. As we heard from Senator Pate, fees pose the greatest burden on those marginalized in our society. Access to information being a fundamental right, recognized nationally and internationally, this bill should ensure accessibility to all Canadians and it does not.

[*Translation*]

Access to information is essential for an inclusive and strong democracy. We must modernize this legislation in order to include provisions that reflect the reality of our times. However, we must not add barriers to access. The main goal is to ensure easy, effective, and fair access for our constituents.

We must not add any more supplementary fees. This would create more financial barriers for many people who just want to get involved and be well informed. After all, access to information is the most reliable way of knowing what is happening in our departments, in our offices, and especially in our bubble in Ottawa. Many testified that the current price is high enough to avoid abuses without restricting access. However, raising the price could further disadvantage the less fortunate and continue to benefit those with means.

[*English*]

This is an essential service and it should not be unduly commodified.

Closer to home, I agree with Senator McCoy that this bill has failed to extend coverage to the bodies that support Parliament. For example, as noted in the 2015 report from the Information Commission, the Board of Economy, and the Senate Ethics Commissioner, senators, our staff and the public cannot get information. There has to be some means of holding these officials accountable. The cloak of confidentiality can and is thrown over many aspects of administration to the extent that we cannot hold them accountable. I speak from experience.

This is a serious issue that needs our further attention.

Last week, Prime Minister Trudeau spoke at the Parliamentary Press Gallery dinner, affirming to members of the media and all present that a free press is the foundation of democracy, full stop. He added:

> . . . keep asking the tough questions and keep us engaged in the essential debates that are shaping our society.

Honourable colleagues, when we pause to assess the importance that access to information has for accountability, we see how crucial the work of the free press is to the health of our nation. So let's not hobble members of the media in seeking the facts and sharing them with the public.

The Canadian government has not made substantive changes to the Access to Information Act since its enactment in 1983.

• (1710)

Modernization is long overdue for this legislation, but we must not agree to changes that would regress Canadians' access to information. We must strive to promote a healthy democracy by ensuring transparency through unimpeded access to information as a derivative right and meaningful participation of Canadians in the public sphere, thereby enabling the citizenry to hold government to account.

While the intent may be there, this bill does not reach the goal.

Hon. Donald Neil Plett: Would the senator take a question? In your remarks, senator, you said the Universal Declaration of Human Rights was the most widely translated document in the world, I believe, translated into 370 languages and dialects. The Bible has been translated into over 500 languages, with parts of it in almost 3,000 languages. Would that not be a little more than 370?

Senator McPhedran: What's your source?

Senator Plett: I'm sorry, senator. I'm asking the question. I expect the answer.

Senator McPhedran: With all due respect, Senator Plett, I don't think it was complete. Could you please share with us the source from which you were quoting? And I'd be happy to try to respond.

Senator Plett: The source of the Bible is God, if that's what you're asking.

Senator McPhedran: Let me try to answer in this way: If one accepts the source that you have used, which I don't necessarily since you haven't named the source, then, yes, the numbers you have given, the number for the Bible, is higher than the number from the Universal Declaration. Generally speaking, since I teach in this area, what I use is the information on the UN website.

Senator Plett: And I'm not really wanting to get into a Biblical debate with you, senator, but the fact of the matter is that there is no argument about the numbers I just cited. Those are very widely known and accepted.

The difference is there are those people who do not consider a book a document. I do. The fact that it has more pages than your six-page document does not make it not a document, so there's the difference. No, that wasn't a question.

The Hon. the Speaker *pro tempore*: Excuse me, Senator Joyal would like to ask a question.

Hon. Serge Joyal: Would the honourable senator entertain another question? I would like to come back to the points that you mentioned around section 6 of the bill, when you say that the administration has the responsibility to determine whether a request is vexatious or could contain vexatious information.

The problem I have is that, when the administration has a capacity to decide on something, there is always, especially when we deal with a right or with a quasi-right, a possibility to appeal or a possibility to have an arbitration so that there is not total, unfettered discretion, which is not the object of a review. Any citizens will understand, if they trust the regime, that there is a capacity to appeal on a negative answer, especially in relation to a refusal, as you mentioned, in relation to the Aboriginal people.

Did you consider how we could introduce, in the act, an amendment that would deal with this issue of a vexatious argument to refuse a document?

Senator McPhedran: Thank you for the question, Senator Joyal. I'm on the record, in relation to other legislation, in saying that I don't think that the antiquated language of "vexatious" should be used in legislation anymore, but I also believe that all of section 6 should be removed. I'm not particularly interested in amendment around a review or appeal, partly because I have lived through that, under the existing access to information, in seeking documents, actually, from the special joint House of Commons and Senate parliamentary committee that you co-chaired in 1980.

The Hon. the Speaker *pro tempore*: Your time is up, senator. Senator McPhedran, do you require more time to answer some more questions?

Senator McPhedran: Yes. Thank you.

The Hon. the Speaker *pro tempore*: Is that agreeable, honourable senators? Five more minutes?

Hon. Senators: Agreed.

[*Translation*]

Hon. Pierrette Ringuette: I would like to thank Senator McPhedran for her comments. Senator, since other senators have also expressed concern and since this bill has been before us for almost six months and has not been reviewed or modernized in 34 years, do you think it is high time that the Senate sent it to committee so that we can hear from witnesses as soon as possible?

[*English*]

Senator McPhedran: Yes.

[*Translation*]

The Hon. the Speaker pro tempore: The Hon. the Speaker *pro tempore*: Did you have a question, Senator Bellemare?

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): No, I wanted to adjourn the debate in my name.

The Hon. the Speaker pro tempore: Senator Duffy has a question.

[*English*]

Hon. Michael Duffy: Yes. Senator McPhedran, would you take a question? I wonder if the senator is comforted by the language of the proposed legislation in relation to the powers and the ability to act of the Information Commissioner? History is replete with examples where it has been 5, 7, 10 years before people have gotten access to even heavily redacted documents that were critically important. Do you feel the current legislation meets that very important problem?

Senator McPhedran: I tried to express in my remarks, Senator Duffy, that, indeed, I do not think it meets the threshold. I think it's quite insufficient.

(On motion of Senator Martin, debate adjourned.)

[*Translation*]

THE SENATE

MOTION TO AFFECT QUESTION PERIOD ON JUNE 5, 2018, ADOPTED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of May 30, 2018, moved:

> That, in order to allow the Senate to receive a Minister of the Crown during Question Period as authorized by the Senate on December 10, 2015, and notwithstanding rule 4-7, when the Senate sits on Tuesday, June 5, 2018, Question Period shall begin at 3:30 p.m., with any proceedings then before the Senate being interrupted until the end of Question Period, which shall last a maximum of 40 minutes;
>
> That, if a standing vote would conflict with the holding of Question Period at 3:30 p.m. on that day, the vote be postponed until immediately after the conclusion of Question Period;
>
> That, if the bells are ringing for a vote at 3:30 p.m. on that day, they be interrupted for Question Period at that time, and resume thereafter for the balance of any time remaining; and

That, if the Senate concludes its business before 3:30 p.m. on that day, the sitting be suspended until that time for the purpose of holding Question Period.

She said: Honourable senators, I move the motion standing in my name.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

• (1720)

[*English*]

CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Hervieux-Payette, P.C., seconded by the Honourable Senator Joyal, P.C., for the second reading of Bill S-206, An Act to amend the Criminal Code (protection of children against standard child-rearing violence).

Hon. A. Raynell Andreychuk: Honourable senators, I rise today to speak to Bill S-206, An Act to amend the Criminal Code (protection of children against standard child-rearing violence).

Bill S-206 seeks to repeal section 43 of the Criminal Code which reads:

> 43. Every school teacher, parent or person standing in the place of a parent is justified in using force by way of correction toward a pupil or child, as the case may be, who is under his care, if force does not exceed what is reasonable under the circumstances.

This is not the first time a bill has been before the Senate on this issue, nor is it the first time that I speak to it. My remarks today will, in part, refer to some of those previous speeches.

It remains clear that we are united in our conviction that a child's right to protection from violence is of paramount importance. However, as I have previously stated, I remain of the opinion that the consequences of a repeal of section 43 outright may pose significant damage to Canadian families and society, without changes to allow for reasonable measures and appropriate action in law to replace it.

Allow me to elaborate. Absent section 43, the general assault provisions contained within the Criminal Code could be applied to any parent or caregiver who uses reasonable force to respond to the needs of a child, or others. Therefore, any discussion of a repeal of section 43 must acknowledge the unique circumstances and challenges that accompany child-rearing.

The purpose of repealing section 43, as stated by previous proponents, is to eliminate all forms of corporal punishment. I do not believe the discussion around Bill S-206 should be around corporal punishment. It is rather about the legal and social implications likely to result from the criminalization of reasonable actions by responsible parents and teachers in the course of fulfilling their duties towards children and whether it violates the Canadian Charter of Rights and Freedoms or any other international human rights legislation.

I share the concern about the use of corporal punishment and do not agree with corporal punishment.

Various studies indicate that corporal punishment rarely leads to positive outcomes for the child, the parent or our society, and it is increasingly understood and accepted in modern Canadian society that other forms of discipline provide the best environment for a child to grow.

Recognizing the evolutionary nature of this process, the Canadian government has, for many years, through many administrations, sought to support this shift through education rather than outright prohibition.

This is reflected in the position of the Public Health Agency of Canada:

> All children need guidance to help them learn self-control. Positive guidance, or 'discipline,' teaches children skills, raises their self-esteem, and strengthens the parent-child bond. Physical punishment is not positive discipline. Children need safe, stable and nurturing relationships with their parents.
>
> Spanking is not an effective way to change your child's behaviour. Spanking can harm your relationship with your child. Research shows that spanking teaches your child to solve problems with aggression.
>
> Your child needs your guidance.
>
> Your child needs you to be consistent and patient.

The Senate has expressed a similar opinion.

In its April 2001 report entitled, *Children: The Silenced Citizens*, the Standing Senate Committee on Human Rights indicated that it did not support corporal punishment. Reflecting the wisdom of the International Convention on the Rights of the Child, our committee stated:

> There is a clear need for further research into alternative methods of discipline, as well as the effects of corporal punishment on children. As well, the Committee, ... believes that the federal government should launch education programs in the public sphere to foster a societal move against corporal punishment, creating a contextual framework from which individual families can draw support.

While the Convention on the Rights of the Child establishes clear obligations, it also notes that children's rights are generally progressive. Children, that is, are maturing, and their capacity to handle their own rights increases into adulthood.

The concepts of parental guidance and responsibility are reflected in the convention's recognition of children's rights to a family, as well as the right to protection from violence. This same logic underpins section 43 of the Canadian Criminal Code. It provides a very narrow defence for the use of force by a teacher or parent within the much broader assault provisions of the Criminal Code.

Absent section 43, any touching by a parent or a teacher in the course of caring, discipline or controlling the behaviour of the child could lead to criminal prosecution. The definitive case, which I ask senators to take into account, is the Supreme Court of Canada in its ruling in the *Canadian Foundation for Children, Youth and the Law v. Canada Attorney General*, 2004. It established principles to guide the application of section 43.

The court indicated that section 43 cannot be used to justify the use of corrective force for any child under 2 or for any child over 12. It established that the defence does not justify actions taken in anger or frustration, or to use of force involving any instrument or object, or blows to the head. Finally, section 43 only applies to "minor corrective force of a transitory and trifling nature," to quote the court. Therefore, section 43 is so narrowly defined now that its repeal would leave parents and teachers without resources to any justifiable use of physical contact by way of correction or restraint of a child or pupil.

The Department of Justice outlines a number of instances in which parents, caregivers or teachers may be required to apply physical force, and I quote:

> . . . to control a child or keep the child, or other children, safe. Grabbing a child to keep that child from running across the street, carrying a screaming three-year-old out of a store, or separating two young students who are fighting may require a parent, caregiver or teacher to touch or restrain the child.

Another way of looking at this is that the repeal of section 43 would place children in the same position as an adult under law.

I therefore do not wish to debate the merits of corporal punishment but to determine the effect of the removal of section 43 from the Criminal Code without reinsertion of any other section or initiative to assist the child, the parent, the teacher and society.

The most constructive analysis on section 43 came in the majority decision of the Supreme Court to which I previously referred. The court was asked to answer three basic questions: First, does section 43 of the Criminal Code infringe on the rights of children under section 7 of the Canadian Charter of Rights and Freedoms? Second, does section 43 of the Criminal Code infringe on the rights of children under section 12 of the Canadian Charter of Rights and Freedoms? And third, does section 43 of the Criminal Code infringe on the rights of children under section 15(1) of the Canadian Charter of Rights and Freedoms? The court demanded that the answer to all three questions was that there was no infringement and that section 43 was indeed constitutional.

• (1730)

In the judgment's first paragraph, the Chief Justice indicated:

> The issue in this case is the constitutionality of Parliament's decision to carve out a sphere within which children's parents and teachers may use minor corrective force in some circumstances without facing criminal sanction. The assault provision of the *Criminal Code*, R.S.C. 1985, c. C-46, s. 265, prohibits intentional, non-consensual application of force to another. Section 43 of the *Criminal Code* excludes from this crime reasonable physical correction of children by their parents and teachers.

The Chief Justice stated:

> I am satisfied that the substantial social consensus on what is reasonable correction, supported by comprehensive and consistent expert evidence on what is reasonable presented in this appeal, gives clear content to s. 43. I am also satisfied, with due respect to contrary views, that exempting parents and teachers from criminal sanction for reasonable correction does not violate children's equality rights. In the end, I am satisfied that this section provides a workable, constitutional standard that protects both children and parents.

To the question of whether section 43 of the Criminal Code offends section 7 of the Charter, the Supreme Court noted:

> Section 7 of the *Charter* is breached by state action depriving someone of life, liberty, or security of the person contrary to a principle of fundamental justice. The burden is on the applicant to prove both the deprivation and the breach of fundamental justice. In this case the Crown concedes that s. 43 adversely affects children's security of the person, fulfilling the first requirement.
>
> This leaves the question of whether s. 43 offends a principle of fundamental justice.

The Supreme Court deliberated on this, and the majority view addressed the issue put forward by the plaintiff, which was that:

> The implication is that for s. 43 to be constitutional, it would be necessary to provide for separate representation of the child's interests.

The Chief Justice found that the ". . . child's interests are represented at trial by the Crown" and gave reasons as to why that was adequate and desirable.

The Foundation, the plaintiff in the Supreme Court case, stated:

> . . . it is a principle of fundamental justice that laws affecting children must be in their best interests, and that s. 43's exemption of reasonable corrective force from criminal sanction is not in the best interests of the child.

Therefore, the Foundation argued, section 43 violates section 7 of the Charter.

The Chief Justice, on behalf of the majority, respectfully disagreed and stated:

> While "the best interests of the child" is a recognized legal principle, this legal principle is not a principle of fundamental justice.

Cases were cited to prove the point. In fact, the Supreme Court noted that Article 3(1) of the Convention on the Rights of the Child describes the "best interests of the child" as ". . . 'a primary consideration' rather than 'he primary consideration.'"

The Supreme Court drew on the wording in *Baker v. Canada (Minister of Citizenship and Immigration)* [1999] 2 S.C.R. 817, at paragraph 75. In this judgment, Madam Justice L'Heureux-Dubé stated:

> . . . the decision-maker should consider children's best interests as an important factor, give them substantial weight, and be alert, alive and sensitive to them. That is not to say that children's best interests must always outweigh other considerations, or that there will not be other reasons for denying an H & C claim even when children's interests are given this consideration.

The Supreme Court therefore found that ". . . the legal principle of the 'best interests of the child' may be subordinated to other concerns in appropriate contexts."

The Foundation also argued that section 43 was unconstitutional because of "vagueness and overbreadth."

The Supreme Court responded that the standard for "vagueness" states:

> A law is unconstitutionally vague if it "does not provide an adequate basis for legal debate" and "analysis"; "does not sufficiently delineate any area of risk"; or "is not intelligible". The law must offer a "grasp to the judiciary" . . . .

But they noted that certainty is not required.

In determining whether section 43 delineates a risk zone for criminal sanctions, the court stated:

> The purpose of s. 43 is to delineate a sphere of non-criminal conduct within the larger realm of common assault. It must, as we have seen, do this in a way that permits people to know when they are entering a zone of risk of criminal sanction and that avoids *ad hoc* discretionary decision making by law enforcement officials. People must be able to assess when conduct approaches the boundaries of the sphere that s. 43 provides.

Applying this principle, the court indicated that section 43 ". . . delineates who may access its sphere with considerable precision." It therefore found that there was no violation of the Charter in this case.

Considering the requirement that the force be "by way of correction," the Chief Justice concluded:

> These words, considered in conjunction with the cases, yield two limitations on the content of the protected sphere of conduct.
>
> First, the person applying the force must have intended it to be for educative or corrective purposes . . . .
>
> Second, the child must be capable of benefiting from that correction.

This led, of course, to all the exceptions that the Supreme Court has noted where force can be used, and that is not under the age of 2, not over the age of 12, and only in a transitory manner, and I have already referred to that.

The court explored cases in which the term "reasonableness" has been defined, and it found:

> Section 43 does not exempt from criminal sanction conduct that causes harm or raises a reasonable prospect of harm. It can be invoked only in cases of non-consensual application of force that results neither in harm nor in the prospect of bodily harm. This limits its operation to the mildest forms of assault. People must know that if their conduct raises an apprehension of bodily harm they cannot rely on s. 43. Similarly, police officers and judges must know that the defence cannot be raised in such circumstances.

The court then went on to say:

> Within this limited area of application, further precision on what is reasonable under the circumstances may be derived from international treaty obligations. Statutes should be construed to comply with Canada's international obligations: *Ordon Estate v. Grail*, [1998] 3 S.C.R. 437, at para. 137. Canada's international commitments confirm that physical correction that either harms or degrades a child is unreasonable.

Canada is a party to the United Nations Convention on the Rights of the Child. Therefore, Article 5, Article 19(1) and Article 37(a) must be taken into account. Similar language to Article 37(a) of the international convention is also found in the International Covenant on Civil and Political Rights, Can. T.S. 1976 No. 47, to which Canada is a party.

The court found:

> The preamble to the *International Covenant on Civil and Political Rights* makes it clear that its provisions apply to "all members of the human family". From these international obligations, it follows that what is "reasonable under the circumstances" will seek to avoid harm to the child and will never include cruel, inhuman or degrading treatment.

> Neither the *Convention on the Rights of the Child* nor the *International Covenant on Civil and Political Rights* explicitly require state parties to ban all corporal punishment of children.

Concerns regarding a repeal of section 43 were outlined by the Canadian Bar Association during the study of a previous iteration of this bill by the Standing Senate Committee on Legal and Constitutional Affairs in June 2008.

• (1740)

On the subject of a repeal of section 43, Mr. Greg DelBigio, Chair of the National Criminal Justice Section of the Canadian Bar Association, stated the following:

> We are concerned that the changes suggested by the bill would dramatically expand the reach of criminal law in a wide range of circumstances . . . .
>
> They would give rise to consequences . . . : arrest, removal from the home and being subject to bail conditions that might prevent a person from returning home or having contact with the children. The person might be subject to those bail conditions until the charge is resolved. Depending on where in Canada this occurs, that type of charge might take months to resolve.

He went on to describe the potential irreparable damage that could affect families in these situations:

> In the meantime, there is a disruption to the family. There is the criminal charge itself. Then, if there is a trial, it creates a situation where family members, including the child, will testify against the parent who has been charged. There are the penalty consequences of a conviction and the further consequences that might impact the family, such as, for example, loss of employment. The potential consequences are far-reaching and in many ways dramatic.

A repeal of section 43 carries with it particular challenges for vulnerable communities and minority groups. Allow me to quote from an article published in *The Lawyer's Daily* by Queen's University law professors Lisa Kelly and Nicholas Bala:

> Families already living in the shadow of state surveillance — immigrant families, single mothers, First Nations families, and working poor households — are most likely to attract police scrutiny.
>
> Parents in high-conflict separations may also be subjected to reports urging that police enforce the letter of the law.
>
> What vulnerable children and families need most is not greater punishment, but basic supports.

Honourable senators, I concur with this position. Harsher criminal punishments for families in these circumstances may cause further damage.

Moreover, further attention must be given to families with children with disabilities, who may act violently and require the application of physical restraint in order to protect themselves and others from harm.

Greater emphasis must be placed on additional resources for support services and education. We have much to learn from countries where corporal punishment has been abolished, as approaches vary from that which is proposed in Bill S-206.

Let us look to Sweden as an example. Sweden was the first country to ban corporal punishment in 1979. This was achieved through an amendment to the Parenthood and Guardianship Code, which reads:

> Children are entitled to care, security and a good upbringing. Children are to be treated with respect for their person and individuality and may not be subjected to corporal punishment or any other humiliating treatment.

According to Dr. Joan E. Durrant, who undertook a long-term study of the impact of the ban in Sweden:

> Its primary purpose was to educate, not coerce.

She added:

> While the law makes clear that the criminal law on assault applies equally to assaults of adults and children, it is important to note that the law was not intended as a means of criminalizing carers, for this reason the law was written into the Parents' Code, which carries no criminal penalties . . . .

The ban in Sweden was also accompanied by an extensive public education campaign. According to Dr. Durrant, this included the distribution of pamphlets to all households with children, available in all major immigrant languages. Information was also printed onto milk cartons sold in grocery stores across the country.

Alternatively, in countries where corporal punishment was banned through criminal law, measures to protect adults accompanied those changes. In May 2007, the Parliament of New Zealand amended section 59 of the New Zealand Crimes Act. It was replaced by a new section 59, entitled "Parental Control," which states — incidentally, it is similar to section 43 of the Criminal Code, and was replaced by this:

> (1) Every parent of a child and every person in the place of a parent of the child is justified in using force if the force used is reasonable in the circumstances and is for the purpose of—
>
> (a) preventing or minimising harm to the child or another person; or
>
> (b) preventing the child from engaging or continuing to engage in conduct that amounts to a criminal offence; or

(c) preventing the child from engaging or continuing to engage in offensive or disruptive behaviour; or

(d) performing the normal daily tasks that are incidental to good care and parenting.

I should say that New Zealand went a lot further than I suggest we should go.

There are restraints, and I think I'm running out of time rather quickly. After twenty minutes I think it's the patience of my colleagues I'm more worried about.

I have enumerated in the past that jurisdictions that have banned corporal punishment still allow for restraints or correction when necessary in a very low ban. Therefore, I am suggesting that if this bill goes to committee in its current form, our focus should shift to continuing to educate parents with regard to alternate discipline strategies. We should consider exploring additional strategies and changes on issues of reasonableness, restraint, safety and security.

We have changed the world that children live in. It's important that we protect them in new ways, and perhaps section 43 of the Criminal Code needs revision. It is already reduced to a very narrow ban by the Supreme Court — not under the age of 2, not over 12 — and a very narrow interpretation.

What has concerned me, and I haven't had time to go into it, is that there are cases now coming up of assault charges against parents. The question is whether they are real assault cases or whether it was a reasonable restraint in the best interests of the child. I understand this bill is going to the Legal and Constitutional Affairs Committee, and I think we need to set real time aside to look at what is going on in the assault provisions as well as section 43.

I think it is time that we modernize the relationship. What I don't want is to sever more children from their parents. It is too easy to do so under an assault charge.

We know the damaging effects. I'm looking at Senator Sinclair, who knows the damaging effects of separating children.

We know the shortcomings of our alternate placement areas for children. In the end, can a bureaucracy help a child as much as a parent? Surely we should be supporting the parent to be able to parent appropriately.

I find Bill S-206 difficult in one other area and that is in its title: An Act to amend the Criminal Code (protection of children against standard child-rearing violence). I believe that title is unwarranted, too provocative and too accusatory against parents and teachers, and it is time for us to reflect fully.

I give full credit to the Standing Senate Committee on Human Rights that undertook an exhaustive study of children. We did say *Children: The Silenced Citizens*. They don't speak for themselves. They need to be heard more often for themselves. But we also know that they need a protective environment, and it should start by parental care in the first place.

In this age of new services for ourselves and new ways of living for ourselves, as I used to say in court, these laws were made for adults. We didn't take into account the needs of present-day children, and every decade we should be looking at whether our laws suit children, particularly on something as blunt as our Criminal Code.

There are some new cases emerging, and I did not put them in because I think I would have run over my 45 minutes. They are emerging, and they're coming up in the provincial courts, which aren't that easy to find all the time, where parents are doing what I think is correct for the child. Teachers are doing what is correct.

• (1750)

The easiest thing is to lay an assault charge. Section 43 now seems to be avoided because of the circumspection of it in the Supreme Court. I could be wrong. Therefore, I think the issue is not just the repeal of section 43; it is to look at the most appropriate support for children and parents and to say violence is not part of it, so it should not be in our title. We should not talk about standard rearing processes because families have different ways of doing so. There is no standard of parenting, as I found out in family services.

We put minimum standards below which you cannot transgress. Beyond that, we respect families as they grow differently. They are different. But when they are in trouble, we need to help them; we don't need to criminalize them. Only when it is intentional harm, intentional beyond transitory, when we're not in anger, that we should even consider anything but an assault charge.

Section 43 needs a lot of work. It has had a lot of work in the Senate, but I think a decade later it needs a new full review. I hope it will receive that in committee.

Thank you for your patience.

The Hon. the Speaker *pro tempore*: Will you accept a question, Senator Andreychuk?

Senator Andreychuk: Yes.

Hon. Joseph A. Day (Leader of the Senate Liberals): Thank you. You made a comment that you understand this is going to the Legal Committee, but a lot of this sounded like Human Rights subject matter to me. Have there been discussions as to where the bill should be sent after second reading?

Senator Andreychuk: I leave it to the leadership. I can give advice. I'm mindful that the leaders have to balance committees and workloads. I've been here for quite some time. I found that I can give my advice and it should only be taken as advice. I'm sure that the leaders have taken advice, and wherever it goes I would be happy to be part of it. I'm not going to let go of this. It has been 10 years of my life.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Senator Plett: On division.

(Motion agreed to and bill read second time, on division.)

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

(On motion of Senator Sinclair, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.)

NATIONAL STRATEGY FOR THE PREVENTION OF DOMESTIC VIOLENCE BILL

SECOND READING—DEBATE ADJOURNED

Hon. Fabian Manning moved second reading of Bill S-249, An Act respecting the development of a national strategy for the prevention of domestic violence.

He said: Honourable senators, I wish to begin my remarks today with a comment by Kofi Annan, former UN Secretary-General:

> Violence against women is perhaps the most shameful human rights violation. And, it is perhaps the most pervasive. It knows no boundaries of geography, culture or wealth. As long as it continues, we cannot claim to be making real progress towards equality, development and peace.

Colleagues, I welcome the opportunity this afternoon to say a few words to begin the second reading of Bill S-249, An Act respecting the development of a national strategy for the prevention of domestic violence.

I introduced this bill to the chamber at first reading, which took place on April 24, 2018. It is with mixed emotions that I stand before you today to talk about the origin and the purpose of this bill, but most importantly to talk about the need for this piece of legislation.

On one hand, while I am proud to be the sponsor of this bill, I find myself at the same time sad that we live in a world where this serious issue has been swept under the rug for far too long. The time has come to address what I do believe is a travesty of justice that has prevailed because of fear, stigma and the absence of a law to protect the vulnerable in our society.

Since I introduced this bill at first reading, several of you have asked me why I'm bringing this forward and why now. Well, as I previously said, I believe we are long overdue on seriously addressing this issue, and the fact that we live in the greatest country on earth does not mean that all our citizens live without fear. Many continue to be abused physically, mentally, emotionally, sexually, financially and in many other different ways. We have much work to do in addressing the concerns and issues of domestic violence, and I hope that this piece of legislation is a solid building block to doing just that.

My work on this legislation began with a phone call I received over a year and a half ago from a woman who had summoned the courage to try to make a difference and who has become a strong advocate. Through her efforts she has given a voice to all those abused women who were and still are unable to speak for themselves.

With her permission, I'm going to tell you her life story and hopefully then you will understand the origin of this bill and why I feel it is so important that we join forces to give those who have been battered and abused a voice, to provide them an avenue where they feel they will have somewhere to turn when the need arises.

This is the story of a brave and courageous woman by the name of Georgina McGrath from a small town of Branch in St. Mary's Bay, Newfoundland. While at the present time she is experiencing a very peaceful solitude on her life's journey, it has not always been that way.

Georgina grew up in Labrador City and today, at the age of 48, she can honestly say that she is a survivor of domestic violence and also a survivor of a suicide attempt. She is now sharing her story in the hope that she can help others who find themselves on the receiving end of a fist and the verbal abuse that often comes with it.

Georgina is a daughter, a sister, a niece, an aunt, a mother-in-law and a friend, and most importantly she is the mother of two amazing adult children — her 29-year-old son Nathan and her 27-year-old daughter Kelty. Georgina is the first to say that she will always be a victim of domestic violence, but quickly follows up with the proud statement that she refuses to ever allow that period of her life to define who she really and truly is.

Throughout the last year and a half, I have sat and talked with Georgina on many occasions. I admire her strength, her determination, her passion and her resolve to expose the abusers and have them pay for their crimes and make this country a place where abused persons will have someone to reach out to in time of need.

Georgina had a life that most people would dream about. She owned a company in Labrador City for eight years and had more independence than most people could have ever wished for. At times she employed up to 30 people, and her financial situation and future looked very golden indeed. She won national and international awards for her work and was enjoying life as a contributing member of our society.

• (1800)

The Hon. the Speaker: Honourable senators, it is six o'clock. Pursuant to rule 3-3(1), if we do not agree to not see the clock, we rise until eight o'clock.

Honourable senators, is it agreed that we not see the clock?

Hon. Senators: Agreed.

Senator Manning: That all changed when she met a man who would become her first abuser. From that relationship she received constant emotional, mental and physical abuse, and in the end it was a gun to her head that was the last straw.

Following that relationship, Georgina was diagnosed with PTSD and fibromyalgia. She picked up the pieces of her life and, with the help of friends and family, continued to work at building her company. She had to provide for her two children and the rewards of motherhood kept her going.

She soon became good friends with a man from Ireland who had come to live in Labrador. He spoke in a nice manner, treated her well at the beginning and seemed to be genuinely concerned about the well-being of Georgina and her children. Their friendship grew into a relationship and eventually they became a couple. She felt comfortable and happy again, let go of her insecurities and was willing to spend the rest of her life with this man. She wanted the relationship to work because failure was not something that she wanted to accept for her private life. They were working away, enjoying life and having fun, and Georgina felt that she had made the right decision this time and was on track to a lifetime of happiness and security.

About a year later, in September 2013, Georgina and her spouse travelled to Las Vegas on a holiday. Sadly and unfortunately, that is the place where she received her first punch from this man who was now to become her second abuser. This time, however, she did strike back. The next morning he looked at her and said, "You know, the best thing about you, GMac" — that was the nickname he had given her — "you can get up and just forget that anything happened." At that particular time in her life, that is exactly what she did, because she had become a pro at hiding what was happening to her.

She hoped that things would get better, but sadly that was not to be. He continued his reign of terror over the next few months by giving her a black eye, cracking off a tooth, and headbutting her so hard that it resulted in a goose egg on her forehead. The increased physical abuse always came with a torrent of emotional and mental abuse as well. Georgina strongly believes all types of abuse go hand in hand.

On August 9, 2014, the night before her forty-fifth birthday, both of them went out with some friends, and he became verbally abusive with her. When they came home, he went to the garage, drank a beer and then threw the beer bottle at Georgina's head. Thank God he missed. The next day, he sent her flowers and a note expressing his love for her and signed the card with "Yours truly." Georgina told me that it was incredible how good he was at manipulating her and showing the rest of the world that he was this great and charming guy. In Newfoundland and Labrador, we call these sorts of individuals "street angels and house devils."

Later that evening he told her that if he really wanted to hit her in the head with the beer bottle, he could have easily done so. It was all about his efforts to have her in his total control.

September 25, 2014, could have been Georgina's last day on earth, but somehow through it all she survived. The night started out with movies and a glass of wine but quickly turned into a night of horror. A verbal argument was followed by a punch which would quickly turn into a life-threatening beating. He pushed her to the floor, got on top of her and began to choke her. As she lay there on the floor, she could feel the life slowly draining from her body. When he pushed his face close to hers, she instinctively took the opportunity and bit him on the nose. He immediately released his grip and ran into the washroom to inspect the damage Georgina had inflicted on him. She somehow managed to get up from the floor and ran and locked herself in the bedroom, but in a blinding rage he put his fist through the door, reached in and unlocked it. He pushed her to the floor again and started to repeatedly hit her in the side of the head. She managed to push him off, but he was stronger and pinned her to the floor once again and started hitting her on the other side of the head.

Unable to fight back any longer, Georgina lay there waiting for that one punch that would end her life. He then turned her over and continued hitting her. He told her she was fat, ugly and wrinkly and that nobody would ever want her. He then got up, went downstairs and got a knife and went into the bathroom. Georgina once again managed somehow to get to her feet and, with her mind racing, put her body up against the door while he pushed and pushed. Eventually he just gave up and gave Georgina the knife.

Georgina went downstairs and called her sister while he kept shouting obscenities at her, continuing to call her fat, ugly and wrinkly. During her time on the phone with her sister, Georgina just wanted all the abuse to stop, so she attempted to take her own life by overdosing on prescription medication. She swallowed six times the legal dose. Her sister could clearly hear the desperation in her voice. When she hung up the phone, she lay down on the couch to die. Luckily, her sister had the fortitude to call 911.

The next thing Georgina remembers was waking up in a hospital and seeing her two beautiful children at the foot of the bed. The abuser came to the hospital and told her he did not understand why he did what he did to her. He did not acknowledge the fresh bruises on her face and body from the beating she received by him. He just wanted her to come home.

When her children asked him several times what happened, he said it was in self-defence. Georgina's daughter, who works in the field of child, youth and family services, told him that no one uses self-defence on someone else's head. The only mark on him was where Georgina had bitten his nose. Georgina had severe head trauma, including two ruptured eardrums, damage to both her temples, nerve damage in her face and bruises that took seven weeks to finally fade away. The mental and emotional trauma was unmeasurable.

On that September night in 2014, there was no one to protect Georgina. Basically, across this country of ours, there is no mandatory reporting of domestic violence. No person has the legal obligation to notify the proper authorities, not your doctor, the nurses, the counsellors, not even the employees of women's shelters.

The police did not investigate Georgina's case because it was ruled a medical call and not domestic violence. There was no investigation into the fact that this man tried to take her life before she tried to take her own.

After leaving the hospital and living with the fear of future abuse, Georgina finally took control of her life. It was not easy to make that giant step which would change her life forever. As a matter of fact, it took several weeks for Georgina, with the encouragement once again of family and friends, to find the courage to go to the police and press charges. By the time an arrest warrant was issued, the man was on a plane back to Ireland. The coward skipped the country before he could be brought to justice. Today, there is a Canada-wide arrest warrant for him if he ever steps foot on Canadian soil again.

If you have never experienced the type of abuse that Georgina and many others, especially women, have endured, it may be easy to say, "Why doesn't someone in that position just get up and leave?" There are many reasons why a woman does not get up and leave. In most cases, finances may not be available, or perhaps there is nowhere to go or no one to turn to for support and protection. Perhaps those who have been abused believe that in some strange way it is their fault. They are led to believe that they may have provoked the abuse and that the stigma related to the abuse may be too much for some people to deal with on their own. There is always the fear that it could happen again, that the law does not protect the innocent and that the next time may be the last time.

Judith Lewis Herman, author of *Trauma and Recovery: The Aftermath of Violence - From Domestic Abuse to Political Terror*, explains the situation quite well:

> The guarantee of safety in a battering relationship can never be based upon a promise from the perpetrator, no matter how heartfelt. Rather, it must be based upon the self-protective capability of the victim. Until the victim has developed a detailed and realistic contingency plan and has demonstrated her ability to carry it out, she remains in danger of repeated abuse.

My fellow senators, that is the story of the abuse that Georgina McGrath endured and lived to tell us about. Many others were not so fortunate. She told me several times that she cannot change what happened to her, but if her efforts to address this very serious issue can help another abused person, it will have been worth all the time and effort she has given to this cause. Georgina truly believes that there is a reason she survived and that it is to change how we deal with the issue of domestic violence; to change the laws so that women, children, men and all abused people in our country will know that they do have somewhere to turn when it seems like the world has turned against them.

• (1810)

Believe me, senators, the more I have delved into this issue, the more alarmed I have become at what is happening in our country of Canada when it comes to the treatment of victims of domestic violence.

In this free and democratic country of Canada, on any given night, 4,600 women and their 3,600 children are forced to sleep in emergency shelters as a result of violence. On a single day, 379 women and 215 children are turned away from shelters in Canada, usually because the shelters are full.

Approximately 50 per cent of women over age 16 in Newfoundland and Labrador experience at least one incident of sexual or physical violence throughout their lifetime. This information is found on the website for the Western Regional Coalition to End Violence, an organization based in Cornerbrook, Newfoundland. Their website also states:

> This epidemic of gender-based violence is fostered by a society rooted in an oppressive discourse of patriarchal domination, authority and control. Gender inequality is both reflected in and reinforced by our social, economic, and political institutions as well as our ideologies and the culture of silence that surrounds violence against women and girls. . . .
>
> We recognize that to address gender-based violence, it is essential to highlight the voices of women who have been silenced by marginalization. It is through their experiences of oppression and violence that we can recognize and comprehend the need for improvements and reform of legal, medical and other supportive service delivery for victims of gender-based violence.

Statistics Canada collects data to measure crime in Canada by means of two complementary sources of information: the quinquennial General Social Survey on Canadians' safety (victimization) and the Uniform Crime Reporting Survey.

In 2011-12 across Canada, 760 victim service programs helped almost 460,000 victims of crime. Among all females assisted, 84 per cent were victims of a violent offence, 30 per cent were women receiving services related to sexual assault; 61 per cent were victims of violent offences by a spouse, ex-spouse, intimate partner or other family member.

The GSS is a household survey conducted every five years. The most recent cycle was conducted in 2014. The target population of the survey consisted of people aged 15 and older and excluded people living full time in institutions. In 2014, 2,040 respondents from the territories and 33,127 respondents from the provinces took part in the survey.

Unwanted texts, Facebook or other social media messages were added to the 2014 GSS survey of examples of unwanted communications to measure respondents' experiences with several behaviours related to stalking.

In 2014, women reported slightly more than 1.2 million victimization incidents, representing 56 per cent of all violent incidents.

Police-reported data provided to Statistics Canada from the 2015 Uniform Crime Reporting Survey showed that approximately 52 per cent of victims of crimes reported to the police were female. The most common offence perpetrated against females was common assault, which represents approximately 48 per cent of all violent incidents reported to police.

In 2014, victims of intimate partner violence accounted for more than one quarter, 27 per cent, of all victims of violent crime reported to police or 88,600 incidents of violent crime. Four out of five victims of police-reported intimate partner violence were women.

A recent report by the World Health Organization states that:

> Intimate partner violence has been identified as a major global public health concern, linked to intergenerational violence and detrimental physical, emotional and economic impacts on victims, witnesses and society as a whole.

In 2014, more than 7 out of 10 victims of police-reported intimate partner violence experienced physical force, 71 per cent. Physical assault, 77 per cent, was the most common offence experienced by victims of police-reported intimate partner violence, followed by uttering threats at 8 per cent and criminal harassment at 6 per cent.

The 2015 police-reported data show that spouses, current or former, and other intimate partners committed approximately 42 per cent of violent crimes involving female victims. Other family members and acquaintances accounted for another 43 per cent.

Police-reported family violence is defined as all types of violent crime perpetrated by a family member that was reported to the police.

In 2014 more than 323,600 people were victims of a violent crime, 26 per cent of whom were victimized by a family member. Seven out of 10 victims of family violence were women and girls.

Youth aged 12 to 17 years were at the highest risk of sexual assault, both family and non-family related.

More than 9,200 seniors aged 65 years and older were victims of violent crime, about one third committed by a family member.

Colleagues, while it may be difficult for some people to understand, studies have shown that 70 per cent of spousal violence is not reported to police. Many victims of spousal violence experience severe forms of violence; specifically, 25 per cent of all spousal violence victims were sexually assaulted, beaten, choked or threatened with a gun or knife. Twenty-four per cent of all spousal violence victims were kicked, bitten, hit or hit with something.

A 2017 Statistics Canada information site, Women in Canada: A Gender-based Statistical Report, states that:

> Females were over-represented among victims of sexual assault (88% of total incidents) and victims of "other sexual violations" (83% of total incidents). Other offences reported to police that were committed primarily against females included forcible confinement and related offences (79%), criminal harassment (76%), and making threatening and harassing phone calls (71%). All of the victims (100%) of offences under the "commodification of sexual activity" category were female.
>
> Rates of almost all types of violent victimization were higher for Aboriginal people. Specifically, the sexual assault rate of Aboriginal people (58 incidents per 1,000 people) was almost three times that of non-Aboriginal people (20 per 1,000), while the physical assault rate of Aboriginal people (90 per 1,000) was nearly double that of non-Aboriginal people (47 per 1,000). Aboriginal females reported experiencing violent victimizations at a rate 2.7 times higher than that reported by non-Aboriginal females.

And 1,181 Indigenous women went missing or were murdered between 1980 and 2012.

Half of Aboriginal victims of spousal violence reported experiencing among the more severe forms of spousal violence, such as having been sexually assaulted, beaten, choked or threatened with a gun or knife. This compares with just one quarter, 23 per cent, of non-Aboriginal victims of spousal violence.

Sixty per cent of women with a disability experience some form of violence. In 2008, over 11,000 sexual assaults of girls under the age of 18 were reported to police in Canada. Given that only approximately 10 per cent of assaults are reported, the actual number is much higher.

More than 15,200 victims of a violent crime were under 12 years of age. These children were most often harmed by a family member. Fifty-five per cent of violent crime against children under 12 years of age was by family members, broken down as follows: 38 per cent by a parent, 9 per cent by extended family, 8 per cent by a sibling.

Forty-five per cent of violent crime against children under 12 years of age was by others, broken down as follows: 20 per cent by an acquaintance; 15 per cent by other relationships; 10 per cent by a stranger.

The GSS indicates that fewer than one quarter of spousal violence victims report the violence to police.

Almost two thirds of spousal violence victims (63 per cent) said they had been victimized more than once before they contacted the police.

• (1820)

Nearly 3 in 10, 28 per cent, stated that they had been victimized more than 10 times before they contacted the police.

In 2011, 69 per cent of the victims of police-reported family violence were women or girls. Women accounted for 80 per cent of all police-reported spousal violence victims.

The total cost of intimate partner violence in Canada has been estimated at $7.4 billion per year, amounting to $220 per capita.

The most direct economic impact is borne by primary victims. Of the total estimated costs, $6 billion was incurred by victims as a direct result of spousal violence for items such as medical attention, hospitalizations, lost wages, missed school days and stolen/damaged property. The justice system bore 7.3 per cent,

$545 million, of the total economic impact; $320 million was borne by the criminal justice system, and $225 million was borne by the civil justice system.

While family violence is a concern for all Canadians, women report intimate partner violence to police nearly four times more than men and are almost three times more likely than men to be killed by a current or former spouse. Almost half, 48 per cent, of women reported fearing for their lives as a result of the post-separation violence.

Numerous domestic violence death reviews, inquiries and coroners' reports have cited the lack of coordination among officials operating in the family law, child protection and criminal justice systems as a contributing factor in tragic family homicides.

Without mechanisms in place to ensure coordination and communication among these systems, families can be faced with potentially inconsistent or conflicting orders, which may in turn have implications for the safety of family members, including the most vulnerable — children. This in turn can undermine public confidence in the administration of justice.

While there is no universally accepted definition of family violence, the definition developed by the federal Family Violence Initiative describes family violence as:

> . . . a range of abusive behaviours that occur within relationships based on kinship, intimacy, dependency or trust.

These abusive behaviours include physical, sexual, verbal, emotional and financial victimization as well as neglect.

When I first contacted the Library of Parliament to develop this legislation, my goal was to develop a law to address domestic violence in Canada. I quickly learned it is not quite that easy to do. At the present time, there is no federal statute, nor provincial statute, that obliges physicians to report cases of domestic violence to third parties. There are national, provincial and territorial jurisdictions that have to be dealt with as well. The delivery of health care is a provincial or territorial matter.

While some provinces have codes of conduct regarding the regulation of physicians and other health care professionals, and most provinces require physicians to report cases of violence when children are involved, no province has made it mandatory to report cases of domestic violence involving adults.

If tonight a woman arrives at a hospital anywhere in our country with a gunshot wound or has been stabbed, it is mandatory to call the police. Hospitals and health care facilities in some provinces — currently British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, Newfoundland and Labrador, and the Northwest Territories — must report gunshot wounds to the police.

Although the reporting obligation in British Columbia, Alberta, Saskatchewan, Manitoba, Newfoundland and Labrador, and the Northwest Territories also includes stab wounds, the legislation in all these provinces is similar. The obligation to report typically falls to the institution or facility, not the individual physician. In some jurisdictions, the obligation placed on facilities to report could also include physicians' private medical offices and walk-in clinics.

However, honourable senators, if that same woman arrives at a hospital tonight with two black eyes, a broken nose, her front teeth missing, and evidence of choking or strangulation from the physical abuse of her partner, there is no obligation or law to call the police. I find that absolutely absurd.

But let us not lose hope of a better way forward. I have been around the political arena for over 25 years now, and I fully understand that every journey begins with a single step. That is the way I, with the support of people like Georgina McGrath, through Bill S-249, will begin this journey.

Bill S-249 calls on the federal government to provide for the development of a national strategy for the prevention of domestic violence following consultations between federal ministers and representatives of the provincial and territorial governments responsible for social development, families or public safety, as well as other relevant stakeholders.

We have to start somewhere, and this is a good first step. We need consistency across and within jurisdictions in policies and legislation that address violence against women. We need shared understanding of the root causes of violence against women. We need high-level commitment, leadership and accountability from government at all jurisdictional levels. We need clearly defined, time-bound goals measured against detailed baseline data, and we need adequate human and financial resources to support these processes. We need new commitments and clear targets, and we need national standards with equality of access for all women that respects and responds to diversity. We need to consult with all stakeholders, including frontline workers and survivors.

Ongoing and unchecked domestic violence can escalate and produce devastating consequences. The people of my home province of Newfoundland and Labrador are all too familiar with the tragic story of a beautiful little girl by the name of Quinn Butt. Quinn's parents were separated at the time of her death.

Trent Butt has been charged with first-degree murder and arson after the body of his five-year-old daughter, Quinn, was found in a burned-out home in Carbonear on April 24, 2016. Following several delays — and that is an issue in itself — Trent Butt's trial is scheduled to now go ahead sometime in 2019.

We also have the incredibly sad story of Chrissy Predham-Newman, who was found murdered in her apartment in St. John's on January 21, 2007. Her throat had been slashed and she was stabbed 53 times.

Following a lengthy investigation, her estranged husband, Ray Newman, was charged two years later with her murder. But three years after that, a judge ruled Newman's rights had been violated during a police interview, and Newman was found not guilty.

No one has ever been brought to justice for the horrible death of Chrissy Predham-Newman. Ray Newman is now before the courts again in Newfoundland and Labrador for allegedly assaulting and choking another woman.

Between 2001 and 2011, family homicides accounted for 34 per cent of all solved homicides. In 2011, 31 children were killed by a family member, and 59 women and 7 men were killed by their current or former spouse.

In Quebec, domestic homicide represented 35 per cent of all homicides committed in 2011.

Under international law, every nation has an obligation to address violence against women. Currently Canada has no national plan or strategy to deal with violence against women. With your support, Bill S-249 can be the vehicle that changes the way we deal with domestic violence in this country.

If you feel the need to do so, I invite you to offer suggestions on how we can improve this piece of legislation. Canada needs a national strategy to ensure all women are able to live free from violence. We owe it to women like Georgina McGrath and the thousands of others who have felt the pain of physical abuse, suffered the anguish of mental abuse, and endured the agony of loneliness and despair.

Canada is a wonderful country in so many ways. We have so much to offer, and we are the envy of the world. Let us work together and support this bill so all people who have suffered or are still suffering from any form of domestic abuse will have hope for a better and safer future.

Honourable senators, I end my speech today the way I began it, by repeating the quote by Kofi Annan:

> Violence against women is perhaps the most shameful human rights violation. And, it is perhaps the most pervasive. It knows no boundaries of geography, culture or wealth. As long as it continues, we cannot claim to be making real progress towards equality, development and peace.

Thank you for listening.

Hon. Senators: Hear, hear!

• (1830)

[*Translation*]

Hon. Renée Dupuis: Would Senator Manning take a question?

[*English*]

Senator Manning: I am saying yes, but I am not 100 per cent sure.

[*Translation*]

Senator Dupuis: Did Senator Manning say that he's personally acquainted with Georgina McGrath, the woman whose story he told us?

[*English*]

Senator Manning: Yes, senator. Georgina McGrath contacted me about a year and a half ago and asked me if there was any law I knew of that was a federal or provincial statute that would address the fact of reporting domestic violence. I contacted the Library of Parliament and was told there was no provincial or federal statute. That's basically where my bill came from.

[*Translation*]

Senator Dupuis: Since you know this woman personally, could you tell her that we listened closely to her story? You could tell her that we did not just listen, we heard. Tell her that we appreciate her courage as a woman trying to protect her dignity as a human as well as her personal safety.

[*English*]

Senator Manning: Senator, I will pass on those words. I spoke to Georgina last night. She has been anticipating my speech here in the chamber and is looking forward to getting the bill to committee where we can have a good discussion on this point.

Hon. Frances Lankin: Thank you very much. My first question is perhaps a bit odd and I hope His Honour doesn't think I'm stretching the rules. I want to ask if you will accept my gratitude and my sincere expression of thanks for the work that you've done on this, and your leadership. It's an important issue. I am very appreciative.

Second, I'm aware that the minister responsible for women's issues is bringing forward a number of initiatives with respect to the matter of broader violence against women, not only domestic violence. I hope that if I can help you in any way, you will approach her and ask to make this part of her response. I would certainly work to support you in getting this bill passed in a timely fashion so it can have an impact on the strategy that is about to roll out.

Senator Manning: Thank you, senator. I spent a lot of time talking to Georgina McGrath over the past year and a half, and I grew up in a family where my father was a tough disciplinarian. He had six sons, so you would have to be tough. But my mother lived with and was married to him for 60 years, and she never had a day of fear in her life. So for me, it was difficult to understand, to be honest with you. But when you sit down and hear the story, it was a front page story in Newfoundland at the time.

As I said in my speech, I'm not a lawyer. I'm open to whatever it takes to have a piece of legislation put together where we address this very important concern.

There are women who go to the hospitals and are afraid to report for the simple reason that they have to go back home. There are women who don't go to the hospital when they need to go. There are children and men involved in some cases. It's much more, to be honest with you, than I thought it was when I started. And when I look at the statistics across the country, gather the information and look at the numbers, it's startling.

I say to Georgina that government is a slow process, but I turned 54 last week, and I have 21 years left to work on this.

Hon. Nancy J. Hartling: Thank you very much, Senator Manning. We have been talking about this for quite a long time, since I first came here, and I'm so pleased you were able to make the speech tonight. You will tell Georgina, from us, as Senator Dupuis said, that we have heard her story. Her story is common, unfortunately. It's a very sobering topic, but if we can take it seriously in this place, I support what Senator Lankin said and we will certainly work with you. There are people who are interested in changing this because it's time. It's 2018, and we have been looking into this issue for 40 years.

Thank you very much for bringing this up.

Hon. Kim Pate: I similarly want to thank you and say how wonderful it is to hear a man, in particular, taking up this position. And I want to acknowledge all of the work that many grassroots groups have been doing for many years. This work was consolidated in 1993, in "99 Federal Steps to Stop Violence against Women." Had that strategy been implemented, Georgina might not have been in that position. Finally, thankfully you were there at the end of the phone. I appreciate all you did.

I would like to take the adjournment in my name.

The Hon. the Speaker: Senator Duffy, do you have a question first?

Hon. Michael Duffy: I have a question if the honourable senator would take it.

I wonder if the honourable senator has had a chance to speak to some of the health care professionals, especially in emergency rooms. In speaking to those people, I have heard time and again the frustration they feel about being constrained by privacy laws when they see something so abhorrent.

I would hope that in whatever study we do on this issue, we find a way. There has obviously been a partial step taken on gunshots and stab wounds in some provinces, but we should find a way to put the health, welfare and well-being of our fellow human beings, the women of Canada, ahead of an abuser's right to privacy.

Senator Manning: First, I want to say thank you to Senator Hartling. When all the new senators started arriving, I went looking at their history and I saw in Senator Hartling's CV that she has been involved in this for years. I talked to her to get some advice. I wasn't 100 per cent sure the way to go with this.

I thank Senator Pate for her words and look forward to working with her as well.

I've spoken to people who work in the emergency rooms. Believe it or not, in another lifetime I was an ambulance driver for seven years. There are a lot of constraints. There are physician-patient confidentiality issues. There are privacy issues. There are a whole lot of things.

One of the things that Georgina raised with me at the time was the fact that sometimes, as I said in my speech, it sadly takes three, four, five, ten assaults before someone gets the courage to go to the police. But if she has gone to the hospital previous to that, it's not recorded as a domestic violence issue. After the seventh or eighth time, when she finds the courage to go to the police, it becomes the first incident. Again, I'm not fully knowledgeable about all these things and that's why I look for advice, but she is trying to make sure it's recorded somewhere. Because down the road when she gets the courage to take it on, there are five or six incidents behind that and it builds a pattern. That's just one thing.

Like I said, physician and patient confidentiality is an issue. Since I started this process, I have received a fair bit of feedback. As I said many times, I'm looking to find an avenue together so we can address this important issue, and I'm open to all suggestions when the time comes for amendments or whatever it takes. My goal at the end of the day is that people out there who are suffering today — and will forever — with domestic violence know that they have somewhere to go and that they can do something about it.

Right now, if you arrive at the emergency room in a hospital tonight, even if you're just told what the options are, there are so many different things that we can do to address this. Hopefully by working together we can do something right.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(On motion of Senator Pate, debate adjourned.)

• (1840)

CRIMINAL CODE

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Kim Pate moved second reading of Bill S-251, An Act to amend the Criminal Code (independence of the judiciary) and to make related amendments.

She said: Honourable senators, today we begin second reading of Bill S-251, An Act to amend the Criminal Code (independence of the judiciary) and to make related amendments.

This bill provides judges with the discretion to impose a fair and just sentence in every case, notwithstanding the presence of a mandatory minimum penalty.

The purpose of today's speech is to provide 10 reasons why I believe this issue requires urgent and concerted action from this chamber.

First, judicial discretion regarding mandatory minimum penalties was part of the government's campaign promises, particularly those made to Canadians to further reconciliation with Indigenous peoples.

Second, the majority of Canadians support judicial discretion.

Third, courts are increasingly ruling mandatory minimum penalties unconstitutional and disproportionate.

Fourth, the proliferation of mandatory minimums in recent years is an aberration, at odds with historical non-partisan consensus about them.

Fifth, Canada's rigid and harsh mandatory minimum penalties have made us an outlier among Western democracies.

Sixth, mandatory minimum penalties do not deter crime.

Seventh, mandatory minimum penalties do not serve the interests of victims.

Eighth, mandatory minimum penalties undermine legal certainty and the rule of law by encouraging wrongful guilty pleas.

Ninth, they carry enormous and needless financial costs.

Tenth, they discriminate against those who are marginalized and result in a less fair and just society for all.

Bill S-251 furthers the government's electoral platform by assisting them to implement the calls to action of the Truth and Reconciliation Commission. Call to action number 32, in particular, urges ". . . the federal government to amend the *Criminal Code* to allow trial judges, upon giving reasons, to depart from mandatory minimum sentences and restrictions on the use of conditional sentences."

The TRC's work traces a clear link between the trauma and marginalization that are the legacy of residential schools, as well as other racist colonial policies, and the current overrepresentation of Indigenous peoples in prisons. Although Indigenous peoples represent less than 5 per cent of Canada's population, 26 per cent of all federally sentenced prisoners and 39 per cent of federally sentenced women are Indigenous.

As we ask what our legacy as legislators will be for future generations, we must consider that a full 43 per cent of girls in custody, practically one in two in prisons for youth, are Indigenous.

Call to action number 32 recognizes mandatory minimum penalties as a primary contributor to this overrepresentation. The harshest mandatory minimum penalty in the Criminal Code is life in prison. Between 2006 and 2016, 45 per cent of women sentenced to life in prison were Indigenous, not because they represent the gravest threat to public safety, but rather because Canada's principles of justice, fairness, proportionality and restraint in sentencing, including an obligation in the Criminal Code to consider an individual's Indigenous history, have been obliterated by mandatory minimum penalties. Mandatory minimum penalties interfere with the ability of judges to do their jobs, namely considering all of the evidence, all the circumstances of each case, and determining just and appropriate ways to hold individuals to account.

Judges have been telling us for decades that mandatory sentences limit their ability to do justice. In 1987, when the Criminal Code contained a total of 10 mandatory minimum penalties, 57 per cent of Canadian judges said that mandatory minimums restricted their ability to mete out a just sentence.

In the intervening years, rather than reducing the numbers and impact of mandatory minimum penalties, successive federal governments have increased mandatory sentencing provisions some six, almost seven, fold.

The proliferation of mandatory minimum penalties not only disproportionately impacts Indigenous peoples but also harms us all by making Canada a harsher, more punitive country and by undermining our commitment to equality and the rule of law.

The Canadian public recognizes this, in fact. Canadians elected the current government on a platform that promised to implement the TRC calls to action, including to restore judge's discretion regarding mandatory minimum penalties. While the government has not yet taken action in this respect, Canadians still overwhelmingly support judicial discretion in sentencing.

In 2017, 9 in 10 Canadians wanted the government to consider giving judges the flexibility to not impose mandatory minimum sentences. Research from the United Kingdom has also demonstrated that members of the public who initially appear to support mandatory minimum penalties tend to characterize even the life sentence as unjust and an unfit sentence once they are provided with factual details about individual murder cases.

This empirical data shows that the principle of proportionate, individualized sentences is fundamental to Canadians. Section 718.1 of the Criminal Code requires judges to impose sentences proportionate to the seriousness of the offence and the responsibility of the person being sentenced. Trial judges must craft just sentences based on the context that shape the crime, the circumstances and experiences of the individuals involved, and the options available to hold people accountable.

Yet, mandatory minimum penalties prevent judges from imposing sentences that take into consideration relevant circumstances that might merit a different response, particularly where a lesser sentence is appropriate. This can result in unduly harsh sentences being imposed on individuals who are most marginalized by sexism, racism, impoverishment and disabling health issues, including those related to mental health and intellectual disabilities.

The principle that judges ought to have discretion in sentencing dates back at least to Aristotle, who recognized that legislation is necessarily general, while the circumstances of each case are resolutely particular. Justice demands an individualized, not a one-size-fits-all, sentence.

Canada has a long history of upholding the principle of judicial discretion. Every committee tasked with making sentencing recommendations to the government has emphasized the need for judicial discretion regarding sentencing.

As long ago as 1938, the Archambault commission recommended an end to the use of mandatory minimum penalties. The Fauteux Committee of 1956 reiterated that removing responsibility for criminal law sentencing from judges would be:

> . . . repugnant to established Canadian concepts of law. . . .

The Ouimet report of 1969 reiterated the need to eliminate mandatory minimum penalties, as did the Law Reform Commission of Canada in 1975 and the Canadian Sentencing Commission of 1987.

The parliamentary committee chaired by Conservative MP David Daubney in 1988 clearly opposed the introduction of new mandatory minimums. The consistent and non-partisan unanimity regarding the read to repudiate mandatory minimums over decades of considered study is both sobering and striking.

In their preoccupation with abolishing the death penalty in 1976, the majority of parliamentarians gave little thought to the consequence of the measure they imposed in its place, Canada's harshest mandatory minimum, the life sentence for murder, coupled with mandatory parole ineligibility periods of 10 and 25 years for first and second degree respectively. David MacDonald, the Conservative Member for Egmont, objected to the tradeoff of one "barbarous, cruel and unacceptable punishment for one that is not equally as bad but is certainly moving in that direction."

Liberal Senator George McIlraith, a former solicitor general, was critical of the mandatory 25-year parole ineligibility period for first-degree murder and remarked, "I hope, in the course of a few years, after some have been sentenced under this provision, that the government will look to amending this clause and coming forward with a better provision." Clearly, he did not anticipate the regressive reforms that followed.

Even prison guards have opposed these harsh and absolute sentencing provisions. Guards were so concerned about the mandatory life sentence creating hopelessness amongst prisoners that they strongly supported the introduction of a potential 15-year review of the parole ineligibility period. Aptly referred to as the "faint hope clause," fewer than two-in-five prisoners who were eligible even applied to have their parole ineligibility period revisited, and only 19 per cent had their parole ineligibility period reduced.

The clear conclusion? It did provide hope and benefited those who deserved a break. Those who knew they had little chance of a reduction of their parole ineligibility periods tended not to even apply. Of those who did apply, only those considered deserving of a reduction were granted an opportunity to apply for parole by juries who considered the merit of their applications, and even fewer were actually granted conditional release by the parole boards.

The question is: How did we lose our way? Why, despite decades of consensus from every committee that has seriously studied the issue that we must retreat from mandatory minimum penalties, have we seen such proliferation in the past 20 years and, particularly, in the past 10?

When the Criminal Code was first enacted in 1892, it contained six mandatory minimum penalties. Until 1995, the number of mandatory minimums remained constant at around 10. Then the Liberal government's Bill C-68 tripled this number by introducing 19 new mandatory minimum penalties. In the 10-year period between 2005 and 2015, a series of one Liberal and four Conservative government bills more than doubled the mandatory minimum penalties in the Criminal Code from 29 to 63.

• (1850)

In 2011, the Conservative government made the mandatory life sentence for murder harsher by further limiting opportunities for parole and eliminating the faint hope clause. Regressive law reforms premised on the flawed view that crime and its associated harms can be addressed by punitive prison sentences runs contrary to all available evidence. On a basic level, studies have shown that most individuals do not know the penalties for crimes and most people who commit crimes do not think about the penalty if they do know it beforehand. The data suggests instead that other factors such as appropriate noncriminal justice intervention and certainty of being held accountable are much more likely to prevent crime. Yet, despite more than 50 years of mounting evidence, governments have persisted in enacting mandatory minimum penalties based on erroneous claims that they deter others who might engage in similar behaviour. As the Supreme Court of Canada concluded in 2015, in *R. v. Nur*, "empirical evidence suggests that mandatory minimum sentences do not in fact deter crimes."

Our obsession with mandatory minimum sentencing laws also runs contrary to the experience of other jurisdictions. Most other Western democracies whose laws include mandatory minimum penalties contemplate some form of judicial discretion — countries like England, Wales, New Zealand, South Africa, most Australian jurisdictions and even some of the United States. Canada lags behind other countries with respect to its position on mandatory life sentences in particular. Canada's sentencing regime for murder is among the harshest and most inflexible in Western democracies, except for the United States, whose massive incarceration rates make it an extreme outlier.

About 60 per cent of the European Union's member states refuse to impose a mandatory life sentence for murder. In fact, in Portugal, the sentence for murder is 12 years in prison and life sentences are considered unconstitutional. The constitutional court of South Africa decided that the mandatory life sentence for murder in that country complied with its Bill of Rights only because the sentence was qualified by a provision giving judges discretion not to impose mandatory minimums. Furthermore, the framework of mandatory minimum penalties in the Criminal Code is already beginning to unravel.

Two Supreme Court cases and at least 10 decisions from provincial courts of appeal have struck down various provisions of the Criminal Code as a result of unconstitutional mandatory minimum penalties. Most recently, in 2016, in the case of *R. v. Lloyd*, the Supreme Court of Canada struck down a provision of the Controlled Drugs and Substances Act that imposed mandatory minimum sentences for drug trafficking on the basis that it prevented judges from examining the particular circumstances of individual cases. The court further concluded that such mandatory minimum sentences are vulnerable to constitutional challenge and suggested that Parliament should enact a provision like the one in the bill before us.

Mandatory minimum sentences also fail victims of crime. Canada prides itself on being a world leader in terms of victims' rights and governments have justified mandatory minimum penalties by claiming they are in the interest of victims. When polled, however, victims consistently ranked informational needs as their highest priority, along with increased participation in the justice system, restitution and recognition of the losses they have suffered — factors unrelated to harsh punishment.

When judges can exercise their discretion, they can hear from victims through victim impact statements and use these statements in their determinations of appropriate sentences. We also know that mandatory minimums will neither undo harm caused nor deter further harm. As the president of Mothers Against Drunk Driving Canada recently testified before the Standing Committee on Justice and Human Rights:

> As a mom, as a stepmom, as a victim, I can't support it. There's no evidence to support that this will actually make a difference. We know once we bury our children or bury a loved one, it's too late. We need to focus on deterring it before it happens.

In my years of working with those convicted in relation to homicides, I can tell you that it is the rare person who would not give up her life if it would bring back the person who died. No sentence can do this. So we try to do our best to otherwise remedy such wrongs by providing other ways for people to pay their debts and provide future positive contributions to society.

Mandatory minimum penalties also fail to guarantee certainty in the law. They do not ensure everyone is sentenced in the same way for the same crime. Where there is evidence to support a charge carrying a mandatory minimum penalty, the discretion available to prosecutors takes on new importance. They can, for example, choose not to lay a charge or to include a charge with a mandatory minimum as a bargaining chip to extract a guilty plea to a lesser charge. Rather than removing all discretion from sentencing, mandatory minimums tend to shift this enormous power from judges, who must offer principled reasons for their decisions to the public, into the hands of actors with less accountability.

As the Sentencing Commission of Canada observed, the rule of law requires that discretion be exercised in a public forum, but the public almost never has access to the reasons why prosecutors proceed with one charge rather than another. Moreover, judicial decisions may be appealed whereas exercises of prosecutorial discretion are not subject to comparable review.

Mandatory minimums do not ensure that if you do the crime you do the time. For many, in fact, mandatory sentencing laws can result in people doing the time without having even done a crime. Many choose to plead guilty to lesser charges and accept a shorter prison sentence rather than going to the court and risking the prospect of a harsher mandatory minimum or discriminatory treatment even if they are not guilty or have a valid defence.

This situation is particularly apparent and appalling in cases of women convicted as a result of their use of lethal force against their abusers. In 1995, then Justice Minister Allan Rock charged Justice Lynn Ratushny with reviewing 98 such convictions. Justice Ratushny determined that a key reason that far too many women had pleaded guilty, despite having a defence, was the spectre of a mandatory minimum sentence of life in prison, particularly for women with children. The significance of this is sobering when we bear in mind that the majority of the women in prison are mothers.

The experience of Kim Kondejewski, a woman from Manitoba, as documented by Professor Elizabeth Sheehy, in her book *Defending Battered Women on Trial*, shows why so many battered women plead guilty to manslaughter rather than risking a trial for murder. Unlike many women charged with killing an abusive partner, Kim's case went to trial. For Kim, this meant exposing and reliving the abuse in a public forum, in front of her own friends and family, those of the deceased and the media. In most cases, there are few witnesses of domestic violence, as we've just heard from our colleague, and women like Kim are usually required to provide evidence in their own defence and be cross-examined by a prosecutor. The transcript of her testimony shows how, frequently sobbing, shrinking before the cross-examiner and requiring time to regain her composure, she told the court that her husband began to abuse her after she married him at age 17, and that his abuse became more and more brutal and degrading as the years passed. In addition to verbal, physical and sexual abuse, threats requiring her to work up to 16 hours a day and forbidding her from leaving the house in which he kept over 50 weapons, including rockets and grenades, he had decided that she should commit suicide so that he could benefit from her life insurance policy to relieve him of his own debts.

After failed attempts at planning her suicide, including a plan that she drive a car into a semi trailer on the highway, he told Kim one day that if she hadn't committed suicide by the time he came home from his date with his girlfriend, he would kill her and their two children. Kim shot him when he returned that evening to prevent him from hurting her daughter and son and then tried to kill herself.

Many women in Kim's situation end up with defence lawyers unfamiliar with dynamics of abuse and therefore less likely to recognize behaviours that represent threats to battered women or the economic social and legal inequalities that they experience.

Despite clear evidence of the threat her husband posed to her and her children, she did not want her children to suffer any further and wished to prevent them from being called by either her lawyer or the Crown to testify. She tried to plead guilty to manslaughter or even second-degree murder. Her lawyer formalized an offer for her to plead to manslaughter but the Crown was so convinced that the case was a slam-dunk first degree murder that Kim's offers to plead guilty were rejected. Kim, however, benefited from a lawyer who could ably present the reality that she reasonably believed she had no recourse to protect herself and her children other than to kill her husband.

The facts in her case fit well with stereotypical generalizations of what a battered woman looks like. The case did not depend only her credibility. Her account was supported by the testimony of many other witnesses. She also had an excellent expert witness who strongly connected her experiences to the paradigm of battered women syndrome, explaining how years of feeling powerless in the face of her husband's abuse led her to believe there was no escape from him.

• (1900)

The jury heard the horrific details of the decades of abuse she experienced and the imminent threat to her life and the lives of her children and, after a mere 55 minutes of deliberation, found her not guilty.

Despite Kim's strong case, Professor Sheehy makes clear the precariousness of her position. The slightest departures from the stereotypes of a good woman, a good mother, a good wife and of a battered woman, such as the strategies of resistance that Kim displayed in intervening to divert her husband's wrath away from their children and toward herself, telling him that she wanted to leave and disclosing his violence to family members and co-workers put her defence at risk because this resourcefulness might not appear to the jury to be the behaviour of a true battered woman.

Years of having her self-esteem systematically attacked made Kim more likely to believe she deserved the abuse, to blame herself for her husband's death and, consequently, to take responsibility for it in court. She tried to do that; so do many others.

First and foremost for many women like Kim, however, is a concern for protecting their children from the traumatizing experience of testifying in court. What is shocking and sobering is that Kim would have served a federal sentence and, possibly, she might still be serving a life sentence if the prosecutor had accepted her request to plead guilty. Instead, unlike most prosecutors, he refused to negotiate. Kim's case shows the incredible pressures on women to plead guilty even when they have a valid defence that justifies their actions in order to avoid the crushing weight of a life sentence.

We know now that all evidence indicates that mandatory minimum penalties utterly fail in their stated goals of deterring crime and offering fairness and certainty in the law. That alone, honourable senators, should be sufficient to convince you that judicial discretion regarding mandatory minimums is needed. But the case in favour of discretion is much stronger than that. All Canadians stand to benefit from reducing both the significant financial investments and the harmful unintended consequences associated with mandatory minimum sentences.

The recent report of the Standing Senate Committee on Legal and Constitutional Affairs, under the chairmanship of our former colleague Senator Runciman and our current colleague Senator Joyal, elaborates the strain that mandatory minimums place on scarce judicial resources and the pressing issue of trial delay.

In their testimony before the committee, no fewer than 11 different criminal justice experts named mandatory minimum penalties as a factor contributing to trial delays. When faced with the prospect of a mandatory minimum sentence, those with means have nothing to lose and everything to gain by going to trial and trying every avenue to avoid a harsh sentence rather than seeking early resolution.

For those convicted and sentenced to a mandatory minimum penalty, the cost to taxpayers of administering a harsher-than-necessary sentence is significant. For a woman in federal prison, for example, each additional year of a prison sentence was estimated by the Parliamentary Budget Officer to needlessly cost taxpayers between $343,000 and $600,000 a year. By contrast, the cost of supporting a woman for a year while she serves a sentence in the community is only approximately $18,000, which also increases her chance of reintegrating successfully into that community and thereby decreases her likelihood of being criminalized again in the future.

We must ask ourselves if paying hundreds of thousands of dollars per woman per year for the label of being tough on crime is worth it when we know that mandatory minimums do not achieve the safer society that they promised.

In speaking about the fiscal costs of mandatory minimum penalties, we must not lose sight of their social costs. The Criminal Code tells us that the fundamental purpose of sentencing is to protect society and contribute to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions. And just sanctions, according to the Supreme Court, are those that do not operate in a discriminatory manner. Yet, again and again mandatory minimums have led to the increased criminalization and imprisonment of those who are impoverished; women; those who live with disabling mental health issues; and those who are racialized, especially those who are Indigenous and African-Canadian.

I have spoken already about the effects of mandatory minimum penalties on Indigenous peoples as highlighted by the Truth and Reconciliation Commission of Canada. A key reason for this disproportionate disadvantage is that mandatory minimums require a judge to ignore a principle of sentencing codified in section 718.2(e) of the Criminal Code, often referred to as the *Gladue* factors.

This provision was enacted in the 1990s in response to concerns about discrimination against, and the over-incarceration of, Indigenous peoples in the criminal justice system. It requires judges to consider all available sanctions other than imprisonment at sentencing and to direct particular attention to the circumstances of Indigenous peoples, which may specifically make imprisonment a less appropriate or less useful sanction.

As I think of all those who could have benefited from alternatives to imprisonment, I cannot help but mention S. You may remember S, honourable colleagues, from my first speech as a senator and my recent closing of Inquiry 19. I was able to visit her recently, and in the year and a half since the first time that I spoke to you about her, far too little progress has been made toward freeing her. She remains Canada's longest-serving woman prisoner. She is an Indigenous prisoner who, as a child, experienced over a decade of horrendous physical, sexual and psychological abuse first in residential school, all of which made her easy prey for men in the years that followed.

She turned to drugs to anaesthetize herself to the trauma she experienced, and she was first jailed as an accomplice to her abusive partner's drug dealing, but she remains in prison today because of a mandatory life sentence for second-degree murder.

S pleaded guilty to the murder of another prisoner while she was imprisoned at the Kingston Prison for Women. To this day, correctional staff and prisoners alike at the prison who knew both the woman who died and S reject that the death of the woman, whose name was Lorna, was anything but a suicide. She was extremely palsied and prone to seizures, yet, shockingly, prison authorities left her to rely on other prisoners for such functions as cleaning, dressing and feeding.

Parenthetically, those of us on the Human Rights Committee have seen many other similar situations for men, too. S and Lorna were extremely close and considered themselves sisters. Though she at first refused, S says she eventually did agree to help Lorna commit suicide. The inquest into Lorna's death concluded that the cause of death was unknown, and S was not initially charged due to a lack of evidence. This changed only when, over a year later, while suffering the severe psychological stress of segregation, S confessed to "murdering" Lorna. She felt intense guilt and responsibility, a sense of personal responsibility that cannot be equated with legal responsibility and that should not have been accepted as the basis of a guilty plea.

The judge who accepted her guilty plea described the situation as follows: "Lorna is dead. The authorities believed her death probably was a suicide. [S] . . . because her conscience was bothering her, confessed to killing Lorna. If she had not done so, she would not have been charged."

S was allowed to plead guilty despite inconsistencies between her confession and both the accounts of the Correctional Service of Canada, or CSC, and photos of the crime scene. CSC delayed in turning over key evidence to the police and failed to investigate or recover missing items belonging to Lorna. The unfortunate image that emerges is of a criminal justice system that did not spare any time determining the true circumstances surrounding an Indigenous woman prisoner's death yet is willing to spring rashly into action on dubious grounds to let another Indigenous woman spend the rest of her days serving a mandatory life sentence because of it.

The travesty for S is that the record of this murder conviction led correctional authorities to wrongly label her as violent. As a result, she has spent significant amounts of time in prison in segregation, a situation that caused psychological suffering from which she will likely never recover. This segregation and the resulting lack of access to programming and opportunities for connections to her community have also prevented her from obtaining parole. She is now more than 17 years — 17 years, colleagues — past her parole eligibility dates. The harsh sentence that she serves has only increased her isolation from her community and utterly failed to support her in rebuilding her life following the experiences of intergenerational trauma, abuse and addiction that led to her marginalization and criminalization.

S's case is not an outlier or an exception. The systemic harm that the Canadian government's racist residential school policies have inflicted on her, her family and her community and so many other families and communities is perpetuated today in policies like mandatory minimum sentencing that disproportionately criminalize and imprison Indigenous peoples negotiating the ongoing effects of trauma, violence, impoverishment and other marginalizations.

Like the other legacies of systemic racism and colonialism in Canada — residential schools, the so-called Sixties Scoop, all of them — one of the most cruel consequences of the overrepresentation of Indigenous peoples in prisons is that it means another generation of Indigenous children is growing up without their parents.

• (1910)

As we debate this bill, honourable colleagues, let us imagine the injustices we can prevent instead of multiply, the families and communities we can support and bring together instead of tear apart. The promise of a fairer criminal justice system, of a truly just society, lies before us. The voices of the public and the experts alike tell us that judicial discretion regarding sentencing is one step down that path. Through legislated mandatory minimum penalties, we, as legislators, have passed untold numbers of sentences without ever knowing the names or faces of the people whom we have condemned to three, five or ten years, or even life in prison, without knowing the harshness or injustices of what we have meted out.

As we consider the bill, honourable colleagues, let us challenge ourselves to see just one of these people before us as a judge does; to take the time to know and understand her before we pass judgment; and when we do, to ask not only what she deserves but what we deserve as a society. Let us reflect on our reasons as a judge does, and consider the decision, the principles and the future to which we, as legislators, want to sign our names.

I hope you will join me in supporting this bill. *Meegwetch*, thank you.

Hon. Senators: Hear, hear.

Hon. Donald Neil Plett: I'll just be a minute. I would like to take the adjournment for the balance of my time, but I will only make these comments: I find it very hard and very frustrating to hear a speech, after we heard what our colleague Senator Manning told us, and the horrific abuse stories that we just heard, that anybody would suggest that the individual that Senator Manning talked about should ever be eligible to get out of prison and not have a minimum sentence. I will take the adjournment for the balance of my time.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

(On motion of Senator Plett, debate adjourned.)

VOLUNTARY BLOOD DONATIONS BILL

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Pamela Wallin moved second reading of Bill S-252, Voluntary Blood Donations Act (An Act to amend the Blood Regulations).

She said: Honourable senators, I rise today to speak to Bill S-252, with both pride and sadness — pride that this chamber will now take on this issue, and sadness that, 20 years after the tainted blood crisis, we still haven't moved to fix an obvious problem. It seems we are living through the old adage that if we don't learn from our history, we are doomed to repeat it.

This bill, I hope, will prevent that from happening, but there is still a lot of work to do.

Most of the young people I know today have no memory or knowledge of the tainted blood scandal, one of the greatest crimes this country has ever witnessed. Tainted blood took thousands of lives and infected thousands more. In fact, over 30,000 Canadians were infected with HIV and hepatitis C due to contaminated blood and blood products. It is estimated that over 8,000 Canadians will yet die as a result.

What is so profoundly sad is that it was a preventable tragedy.

The government of the day appointed Justice Horace Krever to investigate what went wrong. Today we must remember his plea — to protect our blood supply by ensuring it remains a voluntary system and not a cash-for-blood system.

This is an issue I have raised on several occasions in the Senate because, for more than 20 years, I have come to know people whose lives were put at risk, and I count them as friends. As a journalist, I interviewed these victims or their loved ones. Far too many are no longer with us to tell their stories or make the case to keep our blood system voluntary. Many more are mere shadows of their former vibrant selves. Their families were devastated, children were orphaned, and men and women were widowed.

Judge Krever had it right: A not-for-profit, volunteer, publicly accountable blood collection system is what Canada needs. We want people volunteering to donate blood because it is the right thing to do, not because they want a gift card. To see posters posted above urinals in universities enticing young men to sell their blood strikes a blow at the very heart of our volunteer system. It undermines our natural instincts to be altruistic — to be our brother's or sister's keeper.

As we so recently witnessed with the case of the Humboldt Broncos, people's instinct was to give life-saving blood, and they did. The same thing happened in Toronto after the recent van attack incident.

Giving blood has long been a common thing for people, but after the crisis it became a little more complicated. So we must ensure that volunteerism continues.

Cash for blood incentivizes the wrong behaviour. Canadian donors are not meant to be a revenue stream for private companies looking to make a profit. And there is evidence that a cash-for-blood system undermines the precious voluntary system. Today there are billboards along Saskatchewan highways pleading for donations.

It is also important that Canada should be self-sufficient in blood and blood products. Paid-for blood is all exported and sold to the highest bidder. Let me say that again. None of the blood that is collected from paid donors in Canada stays in this country.

That is why Ontario, Alberta and, recently, British Columbia have banned for-profit plasma companies. Quebec has had a long-standing policy since 1993 or 1994 of banning the risky business of paying for blood.

So why are the private, paid-plasma clinics currently operating in Saskatchewan and New Brunswick even allowed? Some say it is all about jobs. Canadian Plasma Resources, the company that runs these clinics, is foreign-controlled, but it has an operating licence from Health Canada. It has created only a handful of jobs in those two provinces, although they are keen to expand.

We need to remember this: The licensing of paid-plasma clinics in Canada contravenes every single fundamental recommendation of the Krever inquiry.

Today, 80 per cent of Canada's voluntary blood system is protected, as I've noted, in the provinces of Ontario, Quebec, B.C. and Alberta. However, this could mean that the smaller provinces will end up being host to the private paid-plasma industry because they want the few jobs.

Health Canada has made it clear that since the practice of licensing paid plasma is not actually illegal at the federal level, there is nothing restricting the agency from issuing more licences to the private company, to Canadian Plasma Resources, CPR, and other companies alike, and there are already some 18 private paid-plasma licences in the queue. We need an immediate moratorium on the granting of any new licences until this issue is fully vetted.

Canadian Blood Services, which was formed after the Krever report, and which does what the Red Cross once did, is responsible for the management of our blood system. They have repeatedly warned the federal government to stop issuing licences to paid-plasma brokers because all of the plasma that is being collected by these private companies will be sold on the international market to the highest bidder and is not even used for Canadian patients. However, their warnings continue to be ignored by Health Canada.

It is clear that a federal law must be in place in order to restrict Health Canada from undermining the security of the Canadian blood supply by allowing more of these private, for-profit clinics.

Justice Krever warned of this. He said:

> The relationship between a regulator and the regulated must never become one in which the regulator loses sight of the principle that it regulates only in the public interest and not in the interests of the regulated.

This situation is actually shocking — that a country on the leading edge of health care delivery allows blood brokering to continue. It is a problem on many levels. Who is selling their blood, and why? Are we allowing these cash-for-blood operations to set up in areas where they will attract people whose health may already be compromised? Are we exploiting young people at universities who are always short of cash?

The experts will argue that we have checks and balances in our system. And, yes, these cash-for-blood clinics are inspected and regulated. However, the issue is not clean floors or comfy chairs; the issue is clean blood.

We didn't know what HIV was when it turned up, so we couldn't test for it. We didn't know the dangers of hepatitis C when it turned up, so we couldn't test for it. We don't know what the next blood-borne evil will be, so we can't test for that, either.

Still, despite all the new science in the world, the best preventative measure against tainted blood is to have a safe and known source of blood.

So you can understand why many of us are a little skeptical when we're told that all is safe now — but you can't find what you don't know you're looking for.

• (1920)

The point of this bill is a simple one: Let's be better safe than sorry, as Krever pleaded with us to do. One of the other compelling issues here is that the federal government must take into consideration that once plasma collection is privately owned, the Canadian public and the Canadian government will no longer have control over or even access to that precious resource.

This might one day be a real issue of national security. We don't want our resources or our financial institutions owned or controlled by foreigners, so why on earth would we allow our blood system or our blood supply to be in the hands of foreigners? What happens when we have our next crisis — a SARS epidemic or a 9/11 terrorist incident? How will we ensure that we have safe, clean blood in our own country for our own needs?

Private paid plasma clinics in Canada do not benefit Canadians. They are not integrated into our blood system. They are privately owned corporations aimed at making a profit off Canadian plasma for export.

I ask all of you to join in this debate, to raise the issues that concern you when it comes to the safety and security of our blood supply. I ask you to raise these issues in the chamber, at committee, with government leaders and in our communities. And I ask that you work with me to pass this bill quickly.

As Justice Krever stated:

> A fundamental value that must guide the blood supply system in Canada is that blood is a public resource, given altruistically by persons in Canada for the benefit of other persons in this country. Profit should not be made from the blood which is donated in Canada.

It was true 20 years ago when Justice Krever made that statement and it's true today. Thank you.

Some Hon. Senators: Hear, hear.

(On motion of Senator Sinclair, debate adjourned.)

JUDICIAL ACCOUNTABILITY THROUGH SEXUAL ASSAULT LAW TRAINING BILL

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Andreychuk, seconded by the Honourable Senator Seidman, for the second reading of Bill C-337, An Act to amend the Judges Act and the Criminal Code (sexual assault).

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable senators, I find myself on the horns of a dilemma. We see from the order paper that this item is at the fourteenth day. There is still one day to run on this.

Senator Cools, who will be leaving at the end of June, told me she has done a lot of work on this subject and that she would like to speak on it. I undertook to ask for leave to restart the clock so she could have an opportunity to speak, and I so request.

The Hon. the Speaker: Honourable senators, Senator Day has an adjournment motion on the floor. It is non-debatable and non-amendable.

It is moved by the Honourable Senator Day, seconded by the Honourable Senator Joyal, that further debate be adjourned in the name of Senator Cools until the next sitting of the Senate.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion the "nays" have it.

(Motion negatived, on division.)

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

(On motion of Senator Andreychuk, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.)

SENATE MODERNIZATION

SIXTH REPORT OF SPECIAL COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Tannas, seconded by the Honourable Senator Wells, for the adoption of the sixth report (interim) of the Special Senate Committee on Senate Modernization, entitled *Senate Modernization: Moving Forward (Speakership)*, presented in the Senate on October 5, 2016.

Hon. Terry M. Mercer (Deputy Leader of the Senate Liberals): Honourable senators, we are on day 14. I am not ready to speak at this time. With leave of the Senate and notwithstanding rule 4-15(3), I would like to propose that the clock be reset on this item.

(On motion of Senator Mercer, debate adjourned.)

THE SENATE

MOTION TO AMEND THE *RULES OF THE SENATE* TO ENSURE LEGISLATIVE REPORTS OF SENATE COMMITTEES FOLLOW A TRANSPARENT, COMPREHENSIBLE AND NON-PARTISAN METHODOLOGY—MOTION IN AMENDMENT—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Bellemare, seconded by the Honourable Senator Harder, P.C.:
>
> That, in order to ensure that legislative reports of Senate committees follow a transparent, comprehensible and non-partisan methodology, the *Rules of the Senate* be amended by replacing rule 12-23(1) by the following:
>
> "Obligation to report bill
>
> **12-23.** (1) The committee to which a bill has been referred shall report the bill to the Senate. The report shall set out any amendments that the committee is recommending. In addition, the report shall have appended to it the committee's observations on:
>
> (a) whether the bill generally conforms with the Constitution of Canada, including:

(i) the *Canadian Charter of Rights and Freedoms*, and

(ii) the division of legislative powers between Parliament and the provincial and territorial legislatures;

(b) whether the bill conforms with treaties and international agreements that Canada has signed or ratified;

(c) whether the bill unduly impinges on any minority or economically disadvantaged groups;

(d) whether the bill has any impact on one or more provinces or territories;

(e) whether the appropriate consultations have been conducted;

(f) whether the bill contains any obvious drafting errors;

(g) all amendments moved but not adopted in the committee, including the text of these amendments; and

(h) any other matter that, in the committee's opinion, should be brought to the attention of the Senate."

And on the motion in amendment of the Honourable Senator Nancy Ruth, seconded by the Honourable Senator Tkachuk:

That the motion be not now adopted, but that it be amended by:

1. adding the following new subsection after proposed subsection (c):

"(d) whether the bill has received substantive gender-based analysis;"; and

2. by changing the designation for current proposed subsections (d) to (h) to (e) to (i).

Hon. Marc Gold: Honourable senators, I note that this item is on day 15 and I know that Senator Omidvar does intend to speak to it. Therefore, with leave of the Senate and notwithstanding rule 4-15(3), I move that further debate on this item be adjourned until the next sitting Senate in the name of Senator Omidvar.

(On motion of Senator Gold, for Senator Omidvar, debate adjourned.)

MOTION TO ENCOURAGE THE GOVERNMENT TO INSTITUTE A NATIONAL SILVER ALERT STRATEGY AND NETWORK ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Wallin, seconded by the Honourable Senator Plett:

That the Senate encourage the Government of Canada to work with provincial and territorial governments and other stakeholders to institute a national Silver Alert strategy and network, modeled after those of the provinces of Alberta and Manitoba, to facilitate the location of cognitively impaired adults who become lost; and

That a message be sent to the House of Commons to acquaint that house with the above.

Hon. David Richards: Honourable senators, I rise today in support of the motion by Senator Wallin, seconded and supported by Senator Plett, for the implementation of a Silver Alert system in Canada, a system already in place in Manitoba and Alberta, and in service in the United States, designed to aid in the search of those suffering from onset Alzheimer's, dementia or other cognitive impairments, high risk to go missing, to become lost and confused in places once familiar and known to them.

Like the Amber Alert system, Silver Alert aids us in quickly recognizing a missing person after a broadcast is made. It supports police and first responders, but perhaps as important or more so, the general public.

The worry and fear of this happening to loved ones should never be lost on us for I doubt even one person in this chamber has not been touched by the disease of which I now speak. We therefore can, all of us, empathize with the plight of a single caregiver, a spouse or other loved one in a rural community left to tend to the needs of someone who has lost their freedom because of this strange and debilitating mental incapacity.

And yes, in rural areas of my province this is often the case — loved ones taking care of loved ones until a bed becomes available or one's name surfaces on a far too long waiting list.

As we all know, in rural houses, front or back fields, gullies and woods, spined with brooks and streams, with myriad ancient lumber roads, dense and overgrown, even the best of woodsmen can get turned around. How much more dangerous it is for anyone with Alzheimer's disease or dementia to wander there, thinking it is a place they recognize. It is in New Brunswick, as it is in the other great rural areas of our country, where each year the elderly and mentally infirm set out in a world no longer safe for them, to travel to places that no longer exist.

The worry of wife or husband, like the New Brunswick man singlehandedly trying to take care of his wife, would be at least alleviated with this system. Speaking to the Moncton Alzheimer Society, he spoke of how isolated he now felt and how overwhelmed he now was.

• (1930)

A Silver Alert system might be his only feeling of connection to others. It might release some of the fear and guilt that comes with the feeling that you alone can't do what you feel you are honour-bound to do. But more than that, it provides some security for those who do wander to places from where they can't return.

This is an epidemic. We do know this. As we grow older, we become candidates whether or not we wish to believe so. There are 14,000 cases of Alzheimer's in New Brunswick and seven more cases are reported every week. There is one case a day in a province that has 200,000 fewer people than Ottawa.

Most of us try to keep thoughts of our infirmity or that of a loved one away, but sooner or later, in some form or another, the truth knocks a husband, wife or sister-in-law, and we are faced with what thousands in our country are. The primary need as caregivers is to keep those afflicted safe in any way we can. But when it strikes out at us, in whatever way, we are all afflicted.

My mother-in-law died of Alzheimer's on October 18, 2004. Though she was in a senior's facility with staff and nurses at the end, for most of her struggling years she lived with my brother-in-law and his wife. Being the only two relatives in New Brunswick at that time, they were left to care for her. At times, Edna would wander, and they would find her outside heading toward the road. Awaking in the morning, she would be certain she had to go outside immediately to gather the eggs from the hens for her mother. That is what she had done as a child. But the road she wanted would take her to no house. The barn and, of course, all the hens were gone two generations before.

For seven years, this worry and heartache my brother-in-law and his wife took upon themselves. The field behind their house led to the woods, the slope to the right led to a brook. Their anxiety increased as her disease did. A Silver Alert system would have worked not only for her, but for her friend suffering the same illness, two elderly women who grew up side by side as children.

In a small way, there was or is already a Silver Alert for the father of a friend who would set off to work in a place that no longer existed, and the gentleman we knew who would set off with great deliberation down our street toward the 80-foot embankment above the Miramichi River. These were people our whole neighbourhood looked out for, made attempts to keep an eye on and keep safe.

How much better, though, if we had a Silver Alert in place to find those whom we could no longer find. It would be local radio and television but done more quickly and responsively than in the past where, at times, a day or even two nights would go by before an alert was given.

I also would like to mention that I do think location bracelets of some kind would be a great asset or some form of GPS tracking. I also think that if someone is lost, especially in our rural areas, aerial drones might work wonderfully well. These implements might lessen the burden of the search.

Even if those bracelets were taken off by someone suffering from dementia, as they often are, the bracelet might tell us the initial direction. The sooner one knows the direction, the sooner one might be found. However, I admit that I do not know the lawful parameters of this.

But I do know this: A relative of mine came home to New Brunswick from Ontario to retire this year. Home a month, she has just been diagnosed. The old world she once knew and was to retire to has suddenly become not a place of refuge but an unfamiliar territory, an enemy, about to be more unfamiliar as the weeks and months go by. She has returned to her rural community with a husband who is also infirm. There will be a time, and it may well come, when she will leave the house to go somewhere that exists only in her memory. Without our help, our care, our love, she might never be able to get back. Thank you.

The Hon. the Speaker: Senator Wallin, if you were to speak now, your speech would have the effect of closing debate on this matter, but Senator Mégie has asked to adjourn the debate.

Hon. Pamela Wallin: I had spoken to Senator Mégie about speaking to the inquiry at a later date and thought she had agreed to that.

The Hon. the Speaker: We do have an adjournment motion on the floor. We have to address that.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

The Hon. the Speaker: Senator Wallin, are you speaking to the matter?

Senator Wallin: I am.

The Hon. the Speaker: Senators are aware that if Senator Wallin speaks to this matter that her speech will have the effect of closing debate on this?

Some Hon. Senators: Agreed.

Senator Wallin: Thank you, Senator Mégie. I hope you do speak on this issue in the inquiry that still sits on our agenda.

I also want to thank Senator Richards for his very powerful words tonight. It is sometimes amazing to have a writer amongst us who can craft our emotions and deliver them and share them so powerfully.

Honourable senators, just this morning there was an article outlining a story of a 75-year-old woman with dementia who went missing and was found dead 10 days later in the stairwell of a power plant across the street from a mental health facility in California. This story is only today's story. It is all too common. Families know it, caregivers know it and the public knows it. Everyone does. It happens in this country every day, to my loved ones and yours. As Senator Lankin described in her heartfelt speech last week, it takes a brutal toll on families and caregivers everywhere.

I believe it is time for government to act on a national Silver Alert strategy and network across this country. The rapidly increasing numbers of those diagnosed with dementia and Alzheimer's is a sign that we need to take action to implement a system to provide another crucial lifeline when our loved ones go missing.

I want to thank Senator Plett for his support on the motion. Your persuasive words have helped start a national conversation on this issue.

I want to thank my colleagues on all sides in this chamber for your support and for how enthusiastically you have embraced this idea and this motion. We know why. Today we worry for our loved ones; tomorrow we worry for ourselves.

I want to thank Sophia Aggelonitis, introduced earlier today in the gallery, for bringing this issue forward to me because her advocacy on this issue will save lives and comfort families.

Senators, let us please send a strong message to the government to initiate a national conversation and launch a national strategy on Silver Alert.

I will ask that we call the question.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

[*Translation*]

RELEVANCE OF FULL EMPLOYMENT

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Bellemare, calling the attention of the Senate to the relevance of full employment in the 21st century in a Globalized economy.

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, I have not quite finished my notes to exercise my right of final reply, so I would like to adjourn the debate in my name for the remainder of my time.

(On motion of Senator Bellemare, debate adjourned.)

[*English*]

SEASONAL WORKERS IN NEW BRUNSWICK

ONGOING CHALLENGES—INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Poirier, calling the attention of the Senate to the ongoing challenges faced by seasonal workers in New Brunswick.

Hon. Marc Gold: Honourable senators, I note this item is on day 14. Senator Ringuette wishes to speak to it and could not be present this evening. Therefore, with leave of the Senate, notwithstanding rule 4-15(3), I move the adjournment of the debate in the name of Senator Ringuette.

(On motion of Senator Gold, for Senator Ringuette, debate adjourned.)

(At 7:40 p.m., the Senate was continued until tomorrow at 9 a.m.)

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